

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of THE COMMONWEALTH OF PUERTO RICO, <u>et al.</u> Debtors. ¹	PROMESA Title III Case No. 17 BK 3283-LTS (Jointly Administered)
In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Debtor.	PROMESA Title III Case No. 17 BK 4780-LTS Re: ECF Nos. 16820, 16833, 16950, 16952, 17169 and 17170 in Case No. 17 BK 3283- LTS and ECF Nos. 2498, 2499, 2517, 2521, 2533 and 2534 in Case No. 17 BK 4780-LTS This Opposition Relates Only to PREPA and Shall Only Be Filed in Case No. 17 BK 4780-LTS

**PREPA’S OPPOSITION TO VERIFIED MOTION OF FOREMAN ELECTRIC
SERVICES INC. FOR ALLOWANCE OF ADMINISTRATIVE EXPENSE CLAIM**

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations.)

COMES NOW, the Puerto Rico Electric Power Authority², by and through the undersigned counsel, and respectfully states and prays as follows:

I. INTRODUCTION

Foreman³, a private party to a Master Services Agreement with PREPA, requests this Honorable Court to enter an order allowing an administrative expense claim in the amount of \$8,362,866.49 for expenses incurred in providing postpetition services to PREPA. However, Foreman's services were not rendered in accordance with the terms and conditions of the Master Services Agreement, which, as will be further explained below, eliminates Foreman's right under Puerto Rico law to payment and thus end any entitlement to an administrative claim.

II. RELEVANT FACTS

On January 29, 2019, Foreman Electric Services Inc. ("Foreman" and "Movant") and the Puerto Rico Electric Power Authority (PREPA and together with Foreman, the Parties), signed a *Master Service Agreement between Puerto Rico Electric Power Authority and Foreman Electric Services Inc* (the "Contract"). See Exhibit A. The purpose behind the Contract was for Foreman to provide the labor, supervision, tools, equipment and materials necessary to perform the restoration and reconstruction services at various locations in PREPA's service areas after the September 2017 hurricanes. Contract at p. 2, Article 1, Scope. Among the other covenants in the Contract, the Parties agreed to the following: (1) "[Foreman] shall provide labor, supervision, tools, equipment and materials necessary to perform the hurricane restoration and reconstruction services at various locations in PREPA's service areas, **all in strict accordance with the provisions of [the] Contract** and [Foreman]'s proposal attached [] as Appendix A." (Emphasis

² The Financial Oversight and Management Board for Puerto Rico, as PREPA's representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* ("PROMESA"), has authorized PREPA to file this motion on its behalf.

³ Capitalized terms not defined in this Section shall be ascribed the meaning provided in subsequent sections.

added) (Contract at p. 2, Article 1); (2) “**All activations** and requests of any service, equipment, and/or personnel located in Appendix A **must come by official written Notice to Proceed by PREPA. [Foreman] will not proceed, or incur any financial burden, without a formal written Notice to Proceed. Such Notice to Proceed will become financially binding on the part of PREPA.**” (Emphasis added) (*Id.*); (3) “[The] Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico.” (Emphasis added) (*Id.* at p. 16, Article 26); and (4) “[Foreman] will comply will all applicable State Law, Regulations or Executive Orders that regulate the contracting process and requirements of the Commonwealth of Puerto Rico.” (Emphasis added) *Id.* at p. 26, ¶ 39.

Subsequently, on March 7, 2019, the Parties signed *Amendment No. 1 to Master Service Agreement Between Foreman Electric Services Inc. and Puerto Rico Electric Power Authority* (“Amendment No. 1”). *See* Exhibit B. In summary, Amendment No. 1 restated that “[A]ll activations and requests of any service, equipment and/or personnel located in Appendix A **must** come by official written Notice to Proceed by PREPA [.]” and that “[s]uch Notice to Proceed [would become] financially binding on the part of PREPA.” (Emphasis added) Amend. 1 at p. 2, Sec. A. Further, Amendment No. 1 added a requirement that the issuance of the first Notice to Proceed under the Contract authorizing the Contractor to mobilize its resources for deployment to Puerto Rico must be signed by the Chief Executive Officer of PREPA. *Id.* Lastly, Amendment No. 1 provided that the laws that governed it were those of the Government of Puerto Rico and, where applicable, the laws of the United States of America. Amend. 1 at p. 3, Section E.

Thereafter, on June 20, 2019, the Parties executed *Amendment No. 2 to Master Service Agreement Between Foreman Electric Services Inc. and Puerto Rico Electric Power Authority* (“Amendment No. 2”, together with the Contract and Amendment No. 1, the “Master Service

Agreement” or MSA). *See* Exhibit C. The execution of Amendment No. 2 was solely to extend the term of the Contract. Amend. 2 at p. 2, Section A. Pursuant to Section B of Amendment No. 2, the original Contract and Amendment No. 1 would continue to be in full force. *Id.* at Section B. Therefore, the official prerequisite which required a written Notice to Proceed by PREPA for activations and request of any service, equipment and/or personnel continued to be in full force.⁴

On May 28, 2021, Foreman filed the *Verified Motion of Foreman Electric Services Inc. For Allowance of Administrative Expense Claim* (the “Motion”). (ECF No. 16820)⁵. In the Motion, Foreman claims that, even though it **did not** receive the Notice to Proceed required by the Contract, it incurred in expenses for mobilization, demobilization and other related efforts but that it has not received compensation from PREPA for those expenses. Motion at p. 2. Foreman further claims payment of the expenses and costs of the mobilization, equipment rental costs, security, demobilization that amount \$8,362,866.49. *Id.* at ¶¶ 22, 23. However, Foreman outright admits that it did not comply with the terms of the Contract because the equipment, expertise and personnel was ready and available for PREPA’s use “[e]ven though PREPA failed to submit a **Notice to Proceed.**” (Emphasis added) *Id.* at ¶ 38.

Foreman moves the Court to grant an administrative expense claim in the amount of \$8,362,866 arguing that the expenses were incurred postpetition to preserve the estate, thus complying with the requirements of Section 503 of the Bankruptcy Code. In the alternative, Foreman asserts that, should the Court find that its request does not meet the requirements of Section 503, the Court should grant the request under the “fundamental fairness” doctrine.

⁴ The provision that the Contract and Amendment No. 1 shall be governed by the laws of the Commonwealth of Puerto Rico was restated. Amend. 2 at Section E.

⁵ References to Case No. 17-03283-LTS.

As it will be shown below, Foreman has failed to set forth grounds in support of either a valid administrative expense claim under section 503 of the Bankruptcy Code, or of an allowable administrative expense claim under the “fundamental fairness” doctrine. Therefore, the Motion should be denied.

III. APPLICABLE LAW AND DISCUSSION

a. Administrative Expense Status Pursuant to Section 503 of the Bankruptcy Code

Section 503 of the Bankruptcy Code provides that an entity may file a request for payment of an administrative expense and, after notice and a hearing, there shall be allowed administrative expenses, which may include the actual, necessary costs and expenses of preserving the estate. 11 U.S.C.A. § 503. Section 301(a) of PROMESA expressly incorporates section 507(a)(2) of the Bankruptcy Code which gives priority to administrative expenses that are allowed under section 503(b) of the Bankruptcy Code. 48 U.S.C. § 2161(a); 11 U.S.C. § 507(a)(2); *In re Fin. Oversight and Mgt. Bd. for Puerto Rico*, 70 Bankr. Ct. Dec. 56, 2021 WL 1732139, at *5 (D.P.R. May 3, 2021). Granting priority status is an exception. It “is contrary to the fundamental principle of bankruptcy law that the debtor's limited resources are to be distributed equally among similarly situated creditors; thus, statutory priorities are narrowly construed, and the burden of proving entitlement rests with the party seeking it. *In re FBI Distrib. Corp.*, 330 F.3d 36, 41–42, (1st Cir. 2003). The theme of the Bankruptcy Act is “equality of distribution”. *In re Mammoth Mart, Inc.*, 536 F.2d 950, 953 (1st Cir. 1976). “If one claimant is to be preferred over others, the purpose should be clear from the statute.” *Id.* To give priority to a claimant not clearly entitled thereto is not only inconsistent with the policy of equality of distribution; it dilutes the value of the priority for those creditors Congress intended to prefer. *Id.*

In the First Circuit, “a request for priority payment of an administrative expense pursuant to Bankruptcy Code § 503(a) may qualify if (1) the right to payment arose from a postpetition transaction with the debtor estate, rather than from a prepetition transaction with the debtor, and (2) the consideration supporting the right to payment was beneficial to the estate of the debtor.” *In re Fin. Oversight* at 5. The burden of proving entitlement to priority payment as an administrative expense rests with the party requesting it and the Court has broad discretion in determining whether to grant a request for such priority treatment.” *Id.*

i. Right to Payment

Foreman does not meet the requirements to have its claim allowed as an administrative expense claim. The first prong for this analysis requires that there is a postpetition “right to payment”. *Id.* However, taking Foreman’s allegations in the Motion as true, its request to have the claim allowed as an administrative expense does not pass the initial administrative claim threshold.

The Courts must analyze if there is a “right to payment” that constitutes a “claim” under the Bankruptcy Code. *Travelers Cas. and Sur. Co. of Am. v. P. Gas and Elec. Co.*, 549 U.S. 443, 451. The Supreme Court precedent establishes that, unless Congress has spoken, the nature and scope of a right to payment is determined by state law. *Id.* at 451. When the Bankruptcy Code uses the word ‘claim’—which the Code itself defines as a ‘right to payment,’—it is usually referring to a **right to payment recognized under state law**. (Emphasis added) *Id.* In summary, the Court must look at the validity of Foreman’s claim under Puerto Rico law before the Court analyzes if Foreman has an allowable administrative expense claim. *Grogan v. Garner*, 498 U.S. 279, 283–84 (determining that the validity of a creditor's claim is determined by rules of state law).

Under Puerto Rico law, Foreman doesn't have a claim against PREPA because it did not comply with the covenants of the Contract, thus failing to abide by Puerto Rico's well established government contracting laws and case law.

1. Puerto Rico Law of Contracts in General

In Puerto Rico, the unequivocal terms of a contract control when such terms are clear and consistent with the apparent intention of the parties. 31 L.P.R.A. § 3471 (repealed 2020)⁶ (“If the terms of a contract are clear and leave no doubt as to the intentions of the contracting parties, the literal sense of its stipulations shall be observed.”); *William L. Bonnell Co., Inc. v. Gandara*, 714 F. Supp. 2d 272, 274 (D.P.R. 2010). “Obligations arising from contracts have legal force between the contracting parties and must be fulfilled in accordance with their stipulations.” 31 L.P.R.A. § 2994 (repealed 2020). The doctrine of *pacta sunt servanda*, which restates Article 1044 of the Puerto Rico Civil Code (repealed 2020), generally holds parties to strict compliance with the terms of their bargain. *Bonnell Co.* at 274. The contracting parties may make the agreement and establish the clauses and conditions which they may deem advisable, provided they are not in contravention of law, morals, or public order. 31 L.P.R.A. § 3372 (repealed 2020). These legal provisions and doctrine are applicable to parties that enter into contracts with the Government of Puerto Rico, its municipalities and instrumentalities, like PREPA⁷. *Ortiz v. Guayama Municipality*, 163 D.P.R. 208 (2004).

⁶ At the time of the execution of the MSA, the Puerto Rico Civil Code of 1930, 31 L.P.R.A. §§ 1 *et seq.*, (the “1930 Civil Code”) was operative. The 1930 Civil Code was repealed in 2020. *See* Puerto Rico Civil Code, Act no. 55 of June 1, 2020 (the “2020 Civil Code”). Pursuant to the operative 2020 Civil Code, actions and contracts executed under the 1930 Civil Code and that are valid in accordance with it, remain in effect, only subject to the limitations established in the 2020 Civil Code. 2020 Civil Code at Art. 1812. Therefore, since the MSA was valid while the 1930 Civil Code was in effect, the rights of the parties under the MSA must be analyzed under the 1930 Civil Code.

⁷ PREPA was created as a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico. The Puerto Rico Electric Power Authority Act, Act no. 83 of May 2, 1941, as amended, 22 L.P.R.A. § 193.

2. *Government Contracting in Puerto Rico*

Section 9 of Article VI of the Constitution of the Commonwealth of Puerto Rico establishes that “[p]ublic properties and funds may only be used for public ends, for State's institutions functions and their maintenance, and in any event as authorized by law.” Art. VI, Sec. 9, Commonwealth Const., L.P.R.A., Volume 1. “Pursuant to the Constitution of the Commonwealth of Puerto Rico, the State has an obligation “to apply the highest fiduciary and ethical principles when managing public funds.”” *Disaster Sols., LLC v. City of Santa Isabel, Puerto Rico*, CV 18-1898 (RAM), 2019 WL 6719866, at *2 (D.P.R. Dec. 10, 2019). To that end, “the Legislative Assembly has developed a framework of different statutes whose purpose is to guarantee fiscal control and regulate government contracting.” *Genesis Security Services, Inc. v. Departamento del Trabajo y Recursos Humanos*, 204 D.P.R. 986, 997-989 (2015). Consequently, the power of the Government of Puerto Rico and its entities to contract and commit public funds is limited by these regulations. *Id.* By virtue of this constitutional mandate, the Puerto Rico Supreme Court has been consistent in demanding the ethical and proper management of public funds. *Id.* at 997. This, given the fact that “[t]he good administration of a government is a virtue of democracy, and part of a good administration implies carrying out its functions as a buyer with efficiency, honesty and correctness to protect the interests and money of the people which said government represents.” *Id.* In pursuit of complying with this principle, strict compliance with government contract requirements has been enforced even in cases where the Governor of Puerto Rico has declared a state of emergency. *Disaster Sols.* at 3.

The Puerto Rico Supreme Court has reiterated that different statutory provisions that regulate the performance of works and contracting of services for the State, its agencies and instrumentalities have as their goal the protection of the interests and money of the people against

waste, prevarication, favoritism and the risks of non-compliance. *Ortiz* at 208. In furtherance of this, the Puerto Rico Supreme Court has been emphatic in stating “that the courts [must] ensure compliance with the legal provisions aimed at protecting public disbursements, since this regulation is intended to protect the public interest in the money of the people and not the contracting parties.” (Emphasis added) *Mun. of Quebradillas v. Corp. Salud Lares*, 180 D.P.R. 1003, 1011-1012 (2011); *see also Hatton v. Municipio de Ponce* 134 P.R. Dec. 1001 (1994). In *Hatton* the Puerto Rico Supreme Court concluded that Government contractors must strictly abide to contractual obligations in order to get paid, even in so called “emergency situations”.

As a result, “[the Puerto Rico Supreme Court has] determined that every government contract must meet the following requirements: (1) be reduced to writing; (2) maintain a record that establishes its existence; (3) send a copy to the Office of the Comptroller of Puerto Rico, and (4) certify that it was carried out and granted fifteen days before”. *Genesis* at 997-998. This is so, because “government contracts must rigorously comply with each of these requirements, 'since they serve as a matching mechanism to perpetuate those contracts circumstantially and chronologically and, thus, avoid fraudulent payments and claims’”. *Id.*

The strict evaluation of adequate disbursement of public funds has been extended to a contractors' failure to comply with the stipulated terms and conditions. In that sense, the Puerto Rico Supreme Court stated the following:

In short, we must bear in mind that every contract with the Government of Puerto Rico is in the public interest. Therefore, at a minimum, we must require that the parties to a government contract comply with the agreed terms and conditions. Even more so when the agreement has implications for public funds. (Emphasis added).

Id. at 1008.

Finally, although in the context of a municipal contract, but equally applicable to government contracting in general, the Puerto Rico Supreme Court has stated that “[c]arrying out a work before signing those clauses would deprive the municipal government and constituents of **protecting themselves from illegal subcontracting or carrying out work without inspection or supervision, among other deficiencies.** (Emphasis added) *Alco Corp. v. Mun. de Toa Alta*, 183 D.P.R. 530, 552 (2011).

3. Analysis

In the case before this Court, the MSA made clear that the laws that governed the contractual rights between PREPA and Foreman were those of the Government of Puerto Rico. Therefore, it is the applicable Puerto Rico law and jurisprudence which must be evaluated to determine if Foreman has a right to payment pursuant to the MSA in the first instance.

PREPA and Foreman voluntarily executed the MSA and became obligated to strict compliance with all its terms and conditions, including that: “All activations and requests of any service, equipment, and/or personnel located in Appendix A **must** come by official written Notice to Proceed by PREPA. [It further provides that] Contractor **will not proceed, or incur any financial burden, without a formal written Notice to Proceed.** Such Notice to Proceed will become financially binding on the part of PREPA.” (Emphasis added) MSA at p. 2, Article 1. Therefore, the only way in which PREPA could become financially obligated to Foreman would be **if** PREPA issued a formal written to Notice to Proceed. Amendment No. 1 and No. 2, restated the obligation of the contractor to **refrain** from carrying out any work or incur any expense without previously having the official Notice to Proceed in writing from PREPA.

Foreman’s candid assertion that it proceeded without a Notice to Proceed is an admission that it did not comply with the terms of the MSA (“Even though PREPA failed to submit a Notice

to Proceed, Foreman's equipment, expertise and personnel were ready and available at the disposal of PREPA — as asserted in the RFP and required under the contract"). *See* Motion, pp. 13- 14, ¶ 38; *see also*: Art. 1044, Civil Code, 31 L.P.R.A. § 2994 (repealed 2020).

Further, the fact that the Contract required that, prior to PREPA becoming financially bound, a Notice to Proceed be provided in writing for work to be performed is not the type of requirement which could be characterized as contrary to the law, morals or public order. 31 LPRA § 3372 (repealed 2020). Quite the opposite. This written provision had the purpose of promoting the more efficient and ethical administration of public funds, in protection of the constitutional mandate and the high public interest involved in the disbursement of government funds, including those of PREPA. *Genesis* at 1007.

Similarly, allowing the performance of a service by a party to financially obligate PREPA without the written authorization of PREPA, would run afoul of government contracting principles as it would not allow PREPA to protect itself from illegal subcontracting or the performance of work without inspection or supervision, among other concerns. Nor would it be valid for Foreman to demand a benefit from PREPA as a result of its unilateral decision in violation of the agreed terms and conditions of the MSA. The disbursement of public funds in this scenario distances itself from the applicable government contracting caselaw given that it would allow payment of public funds in disregard with the terms of the contract.

Further, assuming *arguendo* that Foreman does have a right to payment, it has not been able to show that the mere mobilization and availability of resources was beneficial to the estate. *In Re Fin. Oversight* at 5. PREPA **did not ask** Foreman to mobilize equipment and personnel to the Island, did not assign any work to Foreman and Foreman did not perform any work for PREPA.

Motion at p. 14-15, ¶ 38. Foreman's claim is based solely on mobilization, demobilization and related efforts, not on actual work performed in favor of PREPA.

As discussed above, Foreman has not set forth grounds of a valid administrative expense claim under section 503 of the Bankruptcy Code and therefore, the Motion should be denied.

b. The Fundamental Fairness Doctrine

Foreman asks this Court that, should it find that the requirements of Section 503 are not met, to grant the request and allow the administrative expense claim under the doctrine of "fundamental fairness". Motion at p. 12, ¶ 34. The "fundamental fairness" doctrine is inapposite to the request and facts set forth by Foreman.

The fundamental fairness doctrine plead by Foreman is "a different, narrower, basis upon which administrative expense claims that are not explicitly contemplated by the Bankruptcy Code have been allowed." *In re Fin. Oversight & Mgmt Board for Puerto Rico*, 481 F. Supp. 3d 60, 65 (D.P.R. 2020). The "fundamental fairness" doctrine has been interpreted within the First Circuit to support administrative expense claim priority for two categories of claims that do not otherwise come within the plain language of Section 503(b) of the Bankruptcy Code. *Id.* Those two exceptions are: (i) when the debtor's postpetition operations occasion tortious injuries to third parties or (ii) when the claim arises from postpetition actions that deliberately violate applicable law and damage others. *Id.* The doctrine does not apply when the parties entered into a binding contract and chose not to comply with the contract. *See, id.* at 66 (identifying the scope of the *Reading* doctrine from which the exceptions are derived, *Reading Co. v. Brown*, 391 U.S. 471(1968)).

Assuming *arguendo* that Foreman does have a claim against PREPA, none of the two exceptions established by the Supreme Court in the "fundamental fairness" doctrine are met and

therefore, Foreman's claim cannot be allowed as an administrative expense. Foreman has not made a plausible claim that PREPA's operations caused it a tortious injury or that PREPA deliberately violated applicable law and damage to others. On the contrary, Foreman's arguments and factual assertions, as set forth in the Motion, show that the damage it claims to have suffered, in the form of expenses not paid, was **self-inflicted** when it decided to **disregard** the terms and conditions of the Master Service Agreement and mobilized personnel and equipment to Puerto Rico **without** an official Notice to Proceed.

Moreover, Foreman, by proceeding in violation of the terms and conditions of the MSA and applicable government contracting laws, regulations and case law risked assuming responsibility for his losses, and therefore, is barred from presenting local or imported fairness defenses. *See Rodríguez-Ramos v. ELA*, 190 D.P.R. 448 (2014) (“[The Puerto Rico Supreme Court has] consistently rejected the application of any remedy in equity, such as unjust enrichment, to validate the public obligation without a written contract and thus compensate the damages suffered by a private party by not complying with these requirements.”); *Colón-Colón v. Mun. de Arecibo*, 170 D.P.R. 718, 728–729 (2007) (contractors must ensure that terms and conditions discussed verbally with the governmental entity are reduced to writing before providing services and if the contractor ignores the rules governing government contracting, the contractor assumes the risk and takes responsibility for its losses); *Alco Corp. v. Mun. de Toa Alta*, 183 D.P.R. 530, 552 (municipalities cannot execute contracts after the services have been rendered and the contractor is barred from presenting a claim for unjust enrichment to recover payment for those services) *Quest Diagnostics v. Mun. San Juan*, 175 D.P.R. 994 (2009) (private contractors who wish to obtain by assignment a contract from a government entity must strictly comply with the provisions contained therein (such as obtaining prior written consent from another government entity) and

with the special laws that regulate government contracting, if not, they risk suffering financial loss from their carelessness)) In the application of the “fundamental fairness” doctrine, the Court would be validating an equitable remedy that, pursuant to Puerto Rico’s case law, is not available to Foreman. The Puerto Rico Supreme Court has categorically denied the application of equitable remedies to indemnify private parties that have contracts with entities of the Government of Puerto Rico. It has been consistent in firmly rejecting the application of any remedy in equity to compensate a private party for the damages suffered by providing their services without complying with government contracting regulations. *Rodríguez-Ramos* at 466. Applying the “fundamental fairness” doctrine would ratify Foreman's procedure and, in turn, would constitute the validation of an action that is illegal and contrary to the law in the disbursement of public funds. *Genesis* at 1008. Accordingly, the “fundamental fairness” doctrine is inapposite to the facts and request made by Foreman in the Motion and therefore, the Motion should be denied.

IV. CONCLUSION

For the foregoing reasons, Foreman does not have a right to payment and an administrative claim against PREPA. PREPA therefore requests this Honorable Court to deny the Motion.

Dated: July 16, 2021
San Juan, Puerto Rico

s/ Katiuska Bolaños-Lugo
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EXHIBIT A

2019-P00057

PUERTO RICO ELECTRIC POWER
AUTHORITY MASTER SERVICE
AGREEMENT
FOREMAN ELECTRIC SERVICES INC.

APPEAR

AS FIRST PARTY: The Puerto Rico Electric Power Authority, a public corporation and government instrumentality of the Government of Puerto Rico, created by Act No. 83 of May 2, 1941, as amended, represented in this act by its Chief Executive Officer/Executive Director, Mister José F. Ortiz Vázquez, of legal age, married, and resident of San Juan, Puerto Rico ("PREPA").

AS SECOND PARTY: Foreman Electric Services Inc. a private corporation formed and existing under the laws Puerto Rico, with a principal place of business at 100 Calle Del Muelle, Suite 2504, San Juan, Puerto Rico, 00901 (the "Contractor"), herein represented by Mister Bront Bird, CEO, of legal age, single, and resident of San Juan, Puerto Rico, who is duly authorized to execute this Contract on behalf of the Contractor, by virtue of Corporate Resolution dated January 29, 2019.

BB Both, PREPA and Contractor which are hereinafter referred to individually as a "Party" and jointly as "Parties",

WITNESSETH

WHEREAS, PREPA, by virtue of its enabling act (Act 83), has the authority to engage those professional, technical and consulting services necessary and convenient to the activities, programs, and operations of PREPA;

WHEREAS, As established in Section 205 (1) of Act 83, all purchases and contracts for supplies or services, except personal services, made by PREPA, including its capital construction contracts, shall be made by calling for bids with sufficient time before the date the bids are opened so that PREPA can guarantee proper knowledge and appearance of competitive bidders.

WHEREAS, Pursuant Section 205 (2) (f) of Act No. 83 a competitive bidding shall not be necessary when in the judgment of the Governing Board, a competitive request for proposal (RFP) process for the acquisition of goods, equipment, materials or services must be carried out to encourage greater competition, reduce the risk of collusion and promote the best possible terms and conditions in benefit of greater savings and reduction of costs and operational expenses of PREPA.

IN CONSIDERATION of the mutual covenants hereinafter stated, the Parties agree themselves, their personal representatives, successors and assignees as follows:

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ARTICLE 1. Scope of Work, Contract Value, and Term of Contract

SCOPE: The Contractor shall provide labor, supervision, tools, equipment and materials necessary to perform the hurricane restoration and reconstruction services at various locations in PREPA's service areas, all in strict accordance with the provisions of this Contract and Contractor's proposal attached hereto as Appendix A. PREPA will sign one Contract Release for each line, feeder, segment, substation, or switchyard project. The terms and conditions stated in this Contract will govern on any Contract Release all in accordance and compliance with FEMA guidelines and regulations.

All activations and requests of any service, equipment, and/or personnel located in Appendix A must come by official written Notice to Proceed by PREPA. Contractor will not proceed, or incur any financial burden, without a formal written Notice to Proceed. Such Notice to Proceed will become financially binding on the part of PREPA.

CONTRACT VALUE: The value of this Contract does not exceed \$250,000,000.

TERM OF CONTRACT: This Contract shall be in effect from the date of its execution until June 30, 2019.

ARTICLE 2. Definitions

Whenever the words defined in this Article or their pronouns are used or mentioned in this Contract, they shall have the meanings here given:

- 2.1. Engineer - shall mean PREPA's Transmission and Distribution Director, acting directly or through his properly authorized agents.
- 2.2 Contracting Officer - shall mean PREPA's Chief Executive Officer/Executive Director, acting directly or through his properly authorized agents.
- 2.3 Contract - shall mean, collectively, the documents listed below and all supplementary documents thereto that are incorporated by reference. In the event of a conflict between any such documents, the following shall constitute the order of priority governing the interpretation of the Contract:
 - a. Contract
 - b. Contractor's Proposals (Contractor Proposal)
 - c. Performance and Payment Bond as approved by PREPA's Risk Manager and Treasurer.

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In case of any difference between the terms and conditions of this Contract and the terms of Contractor's Proposals, the terms and conditions of this Contract shall govern.

ARTICLE 3. Consideration

The Parties acknowledge the fact that the execution of this Contract is subject to availability of funds. It is the sole responsibility of PREPA to provide either a proof of available and allocated funds (Certifications of Funds).

BS
In accordance with the terms and conditions herein contained, PREPA agrees to pay, and Contractor accepts that PREPA will make payments for the work performed on a Time and Materials basis at the rates, and subject to the terms, set forth in this Contract, Specifically under Appendix B and Appendix C. As compensation for services rendered under this Contract, PREPA and the Contractor agree that the total amount to be paid under this Contract shall not exceed two hundred fifty million dollars (\$250,000,000). PREPA shall have no obligation to pay the Contractor any amounts in excess of the Contract ceiling price. Contractor shall have no obligation to perform any work in excess of the Contract ceiling price. The Contractor will be the only one responsible for any works it or any of its subcontractors, if any, does in excess of the Contract Amount, unless otherwise agreed to in writing, signed by the Parties.

The Parties agree that the Contractor shall invoice PREPA weekly for the total Time and Materials rates for the Services provided by the Contractor. Contractor's invoices will be paid in full after PREPA's evaluation and acceptance of the work; notwithstanding the foregoing or any other provision of this Contract to the contrary, in no event will Contractor's invoices be paid later than sixty (60) days after the date of the invoice. PREPA's acceptance of the work shall not be unreasonably withheld. The payment shall be made by [electronic transfer (wire)] to Contractor's commercial account number _____ (route number _____). The Contractor shall be responsible to pay PREPA any and all fees required to make the electronic transfer. All disbursements for such payments shall be made from account 01-1747-17595-555-474.

EARLY PAYMENT DISCOUNT: In the event that the Contractor elects to give a discount of one half percent (1/2%) of any invoice, PREPA shall be accept that discount for early payment and to advance and expedite pay in no later than thirty (30) days after the date of invoice submission, as compensation for discount.

Subject to PREPA's obligation to pay Contractor's invoice(s) within sixty (60) days after the submittal date of the invoice, the invoices submitted by Contractor must be approved by the Engineer and must be accompanied by the proper supporting documents (such as inspection certifications, work reports and third party invoices).

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Contractor shall cooperate fully with PREPA's efforts to monitor Contractor's work, ensure efficiency, and implement effective cost controls, including but not limited to, requiring Contractor to provide daily status reports, to maintain daily sign in sheets or equipment usage logs certified by the crew leader, or other efforts.

PREPA is obligated to accept and/or deny the Contractor's invoice within ten (10) days of Contractor's submission. In the event that PREPA denies an invoice, PREPA shall provide a written and thorough explanation, highlighting all specific errors and/or omissions of the Contractor's invoice, to justify the denial. This detailed reason for denial must be submitted to the Contractor within that same ten (10) day time span. PREPA acknowledges that the time frame of the payment terms and provisions referred to in this Contract will not re-start upon PREPA's acceptance or denial of an invoice. Instead, the pay terms and provisions referred to in this Contract, will remain constant upon the submission of the Contractor's invoice to PREPA.

BB All invoices must include a written certification stating that no officer or employee of PREPA will derive or obtain any benefit or profit of any kind from this Contract. Invoices that do not include this certification will not be accepted. This certification must read as follows:

No Interest Certification:

"We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Agreement. The only consideration to be received in exchange for the Services provided is the agreed-upon price that has been negotiated with an authorized representative of PREPA. The total amount shown on this invoice is true and correct. The Services have been rendered, and no payment has been received."

Contractor's Signature

The demand of the obligations of either Party under this Contract will be subject to the filing of the Contract at the Office of the Comptroller of the Commonwealth of Puerto Rico, in compliance with Act of October 30, 1975, No. 18, as amended.

ARTICLE 4. Suspension of Work

The Contracting Officer or the Engineer may, at any time, suspend the whole or any portion of the work under this Contract, but this right to suspend the work shall not be

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construed as denying the Contractor actual reasonable, and necessary expenses due to delays, caused by such suspension, it being understood that expenses will not be allowed for such suspension when ordered by the Contracting Officer or the Engineer on account of a Force Majeure Event, as defined in Article 9, Force Majeure, herein below. The cause of such suspension shall be set forth in writing by the Contracting Officer or the Engineer within two (2) working days after the suspension or as soon as practicable.

ARTICLE 5. Specifications and Drawings

Anything called for in the specifications and not shown in the drawings, shall be deemed to have been called for or shown in both. In case of any difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the specifications and drawings, the matter shall immediately be submitted to the Engineer, without whose decision said discrepancy in the specifications and drawings shall not be adjusted by Contractor, and Contractor shall not proceed with the work affected thereby until he has received written orders from the Engineer.

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In the event that any discrepancy in specification causes a delay in work, it will not prevent Contractor from billing PREPA for Time and Materials associated with the delay.

The Engineer will, from time to time, furnish such additional detailed drawings or other information as he may consider necessary for carrying out the work.

ARTICLE 6. Changes and/or Extra Work

The Engineer may, at any time, make changes in the Scope of Services to be performed and/or order extra work under a Contract. When Contractor and PREPA have agreed to the scope and nature of such changes in writing, the terms impacted by the changes will be revised and the Contract will be amended by the Parties to reflect the changes agreed and/or schedules required. Contractor shall not proceed with any change until and unless such Contract amendment is sign by both Parties and register in the Puerto Rico Comptrollers Office. No changes shall be made to the scope of the Services that would render the costs incurred in the performance of this Contract unallowable or not allocable under, or outside the scope or not reasonable for the completion of, Federal grant awards from FEMA or any other U.S. federal agency.

ARTICLE 7. Inspection

During the progress of work, the Engineer or its authorized representatives shall make

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daily inspections to evaluate all assigned works as established and accepted by PREPA to ensure Contractor compliance with the power line specifications. All jobs shall be executed, performed and built in full compliance with PREPA's Electrical Codes and any other special requirement established previous the commencements of works. Job sites shall be marked with cones and signs visible from the nearest road to identify crew location.

BB All work performed by the Contractor is subject to inspection and approval by PREPA, PREPA to clearly identify and provide the required specification prior to commencement of work. Any work not meeting PREPA or generally accepted power line construction standards or turned in falsely will be redone at no cost to PREPA. If subsequent inspections are required after the initial follow up the actual cost shall be billed to Contractor, provided such subsequent inspections are required due to conditions caused solely by Contractor. The presence of PREPA personnel shall not in any way alter, modify, or lessen the obligation of the Contractor to comply with the requirements of this Contract. Any inspection by PREPA personnel shall not be considered as an acceptance of waiver of warranty or other rights of the work inspected. However, it is understood that power line warranty cannot begin without commencing the process of energization of the line.

The Contractor shall promptly correct all work reasonably deemed by PREPA as failing to conform to the power grid construction specifications provided by PREPA to the Contractor pursuant to the previous paragraph. The Contractor shall promptly remedy the lack of performance and execute the work in accordance with the specifications, pursuant to the previous paragraph. If the Contractor fails to correct work deemed by PREPA as failing to conform to the power grid construction specifications provided by PREPA within a reasonable time after notice has been given to the Contractor, PREPA may correct such work at a commercially reasonable expense, and bill said expense to Contractor. Such expense may be deducted by PREPA from any payments due or to become due to the Contractor or, if final payment has been made, the Contractor shall reimburse PREPA such amounts.

ARTICLE 8. Access to Work

The Contractor shall permit all persons appointed or authorized by PREPA to visit and inspect the work, or any part thereof at all times, and places during the progress of it.

ARTICLE 9. Force Majeure

Neither Party shall be liable for any default or delay in the performance of its obligations under this Contract, except obligations of PREPA to pay Contractor's invoices pursuant to the terms herein, due to an act of God or other event to the extent

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that: (a) the non-performing party is without fault in causing such default or delay; (b) such default or delay could not have been prevented by reasonable precautions; without material cost or expense and (c) such default or delay could not have been reasonably circumvented by the non-performing Party through the use of alternate sources, work-around plans or other means, without material cost. Such causes include, but are not limited to: act of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of PREPA or the Company to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes.

In the event of any delay resulting from such causes, the time for performance of each of the Parties hereunder (including the payment of monies if such event actually prevents payment) shall be extended for a period of time reasonably necessary to overcome the effect of such delay, except as provided for elsewhere in the Contract Documents. In the event of any delay resulting from such causes, PREPA may consider payment to the Contractor for costs and expenses incurred by Contractor as a result of the delay.

BB In the event of any delay or nonperformance resulting from such causes, the party affected shall promptly notify the other in writing of the nature, cause, date of commencement and the anticipated impact of such delay or nonperformance. Such written notice, including Change Orders, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected within seven (7) calendar days.

ARTICLE 10. Liabilities

10.1 Civil Responsibility

The appearing parties agree that their responsibilities for damages under this Contract will be governed by the Puerto Rico Civil Code and its case law, as dictated by the Supreme Court of Puerto Rico.

10.2 Indirect or Consequential Damages

The Contractor shall not be responsible for indirect or consequential damages that may occur in relation to the Services performed.

10.3. Direct Damages to PREPA's Property

The Contractor shall be insured for all direct damages to PREPA's property that occur as a result of his fault or negligence in connection with the prosecution of the work, and shall be responsible for the proper care and

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protection of all materials, and equipment delivered and work performed until completion of work. The Contractor's total liabilities for damages shall not exceed the Contract Price.

10.4. Protection against the Occurrence of Damages

The Contractor agrees to make, use, provide, and take all proper, reasonably necessary and sufficient precautions, safeguards, and protection against the occurrence or happenings of injuries, death and/or damages to any person or property during the progress of the work. In the performance of its obligations under the Contract, Contractor agrees to comply with all applicable local and federal laws and regulations.

10.5 Save and Harmless Clause

BB The Contractor agrees to indemnify and save harmless PREPA for all expenses and costs of any nature (including attorneys' fees) incurred by PREPA arising out of any claim made by any person for personal injuries, including death, sustained by any person, including the employees of Contractor, and for damages to third party property to the extent such injuries, death or third party damages are caused by the fault, negligent acts or omission of Contractor, its employees, subcontractors or affiliated companies, arising out of its or their performance and/or failure to perform work and Services.

10.6. Save Harmless for Operation of PREPA's Equipment

If the Contractor is allowed to operate PREPA's equipment, the Contractor shall indemnify and save harmless PREPA from loss, expense or liability imposed upon PREPA for any injury to a person, including death resulting there from or damage to any property resulting from the operation of such equipment by the Contractor, to the extent such loss, expense or liability is caused by the negligence of Contractor.

10.7. Contractor's Liability

The overall aggregate liability of Contractor with respect to any and all claims arising out of the performance or non-performance of obligations under the Contract, regardless of any legal theory or cause of action under which such liability may arise, shall not exceed the Contract Price (which includes authorized changes). However, the foregoing dollar limitation shall not apply

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to liability arising from third party claims for bodily injury or third party property damage to the extent such liability results from Contractor's fault or negligent acts or omissions while working under the Contract.

ARTICLE 11. Independent Contractor

The Contractor shall be considered as an independent contractor, for all material purposes under this Contract, and all persons engaged or contracted by the Contractor for the performance of its obligations herein, shall be considered as its employees or agents or those of its subcontractors, and not as employees or agents of PREPA. In consequence, the Contractor is not entitled to any fringe benefits, such as, but not limited to: vacations, sick leave, and other.

ARTICLE 12. Termination

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- 1) Notwithstanding anything to the contrary in this Contract regarding its term, PREPA may, at any moment, terminate, cancel or accelerate its expiration, after giving the Contractor not less than thirty (30) days prior written notice, for any or no reason, when in PREPA's judgment such action responds to its best interest. PREPA may terminate this Agreement immediately in the event of negligence, dereliction of duties or noncompliance by the Contractor.
 - 2) PREPA may terminate this Contract (or any portion thereof) for any cause if Contractor (I) becomes insolvent, or (ii) in is material breach of the service obligation, which does not otherwise have a specified contractual remedy, and fails to cure the breach within thirty (30) days of notice from PREPA; or fails to commence to cure the material breach and diligently proceed with the cure if it is not possible to cure within thirty (30) days of such notice.
 - 3) If this Contract is so terminated, the Contractor shall be compensated in accordance with the terms of this Contract for all work performed through the termination date and for actual, reasonable, and necessary expenses, including reasonable demobilization costs caused by such termination, which shall apply in the case of Termination by either Party for any reason. The exercise of PREPA's right to terminate, cancel or rescind the Contract shall not be understood as a waiver by PREPA to any other remedy it may have under this Contract or under the law for delays or breach incurred by the Contractor in the performance of its obligations under the Contract.
 - 4) Breach by PREPA. Upon written notice to PREPA from Contractor stating that PREPA is in material breach of the Contract, PREPA will immediately remedy such material breach. Where PREPA fails to remedy such material breach within ten (10) days or to promptly initiate and continue in good faith to remedy a material breach that cannot be reasonably remedied in ten (10) days, Contractor will have the right to

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terminate the Contract upon five (5) days' notice to PREPA. PREPA further agrees that if it commits a substantially similar material breach more than twice in any one (1) month period, regardless of remedy, Contractor will have the right to terminate the Contract upon notice to PREPA.

ARTICLE 13. Insurance

The Contractor shall secure and maintain in full force and effect during the life of this Contract as provided herein, policies of insurance covering all operations engaged in by the Contract as follows:

13.1 Commonwealth of Puerto Rico Workmen's Compensation Insurance

88 The Contractor shall provide workmen's compensation insurance as required by Act No. 45 of April 18, 1935, as amended, known as the Workmen's Compensation Act of the Commonwealth of Puerto Rico ("Act 45"). Contractor shall also be responsible for compliance with Act 45 by all its subcontractors, agents and invitees, if any, or shall certify that such subcontractors, agents and invitees have obtained said policies on their own behalf. Contractor shall furnish to PREPA a certificate from the Puerto Rico's State Insurance Fund showing that all personnel employed in the work are covered by the workmen's compensation insurance, in accordance with this Contract.

13.2 Employer's Liability Insurance

The Contractor shall provide Employees Liability Insurance with minimum bodily injury limits of \$3,000,000 for each employee and \$3,000,000 for each accident covering against the liability imposed by Law upon the Contractor as a result of bodily injury, by accident or disease, including death arising out of and in the course of employment, and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico.

13.3 Commercial General Liability Insurance:

The Contractor shall provide a Commercial General Liability Insurance with limits of \$3,000,000 per occurrence and \$3,000,000 aggregate.

13.4 Commercial Automobile Liability Insurance:

The Contractor shall provide a Commercial Automobile Liability Insurance with limits of \$3,000,000 combined single limit covering all owned, non-owned and hired automobiles.

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Requirements Under the Policies:

The Commercial General Liability and Commercial Automobile Liability Insurance required under this Contract shall be endorsed to include:

a. As Additional Insured:

Puerto Rico Electric Power
Authority Risk Management
Office
PO Box 364267
San Juan, PR 00936-4267

- b. A 30 day cancellation or nonrenewable notice to be sent to the above address.
c. An endorsement including this Contract under contractual liability coverage and identifying it by number, date and parties to the contract.
d. Waiver of Subrogation in favor of PREPA.
e. Breach of Warranties or Conditions:

"The Breach of any of the Warranties or Conditions in this policy by the Insured shall not prejudice PREPA'S rights under this policy."

Furnishing of Policies:

All required policies of insurance shall be in a form acceptable to PREPA and shall be issued only by insurance companies authorized to do business in Puerto Rico.

The Contractor shall furnish a certificate of insurance in original signed by an authorized representative of the insurer in Puerto Rico, describing the coverage afforded.

Indemnification. The Contractor shall indemnify, defend and hold harmless PREPA, its agents and employees, from and against any and all claims, actions, suits, charges and judgments arising from, or related to, the negligence, fraud or willful misconduct of the Contractor in the performance of the services called for in this Contract. The failure of the Contractor to obtain, maintain, or pay for any insurance coverage necessary to insure its obligations under this Contract and/or the failure of Contractor's insurance carrier to provide insurance coverage shall not relieve Contractor of its indemnification obligations.

PREPA shall indemnify, defend and hold harmless Contractor, its agents and employees, from and against any and all claims, actions, suits, charges and judgements to the extent caused by the negligence, fraud, or willful misconduct of

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PREPA in the performance of its duties called for in this Contract. The failure of PREPA to obtain, maintain, or pay any insurance coverage necessary to insure its obligations under this Contract and/or the failure of PREPA's insurance carrier to provide insurance coverage shall not relieve PREPA of its indemnification obligations.

ARTICLE 14. Bonds

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1. A Performance Bond in the amount of one hundred percent (100%) of the amount specified in the applicable work release, with a good and sufficient surety satisfactory to PREPA guaranteeing that the Contractor will well and faithfully perform the work specified in such work release.
 2. A Payment Bond in the amount of one hundred percent (100%) of the amount specified in the applicable work release, with a good and sufficient surety satisfactory to PREPA to guarantee the prompt payment of all labor, supervision, equipment and materials required in the performance of the work specified in such work release.
 3. In the event that the Performance and/or Payment Bond underwriting process slows the progress of the performance aspect of this Contract, in any way, the Contractor agrees to allow PREPA to withhold ten percent (10%) of each invoice(s) for one year (1) in the form of retainage and guarantee of work, or until bonding is secured. All retainage will be kept in an agreed upon escrow account.
 4. All bonds shall be issued in the Official PREPA forms.

ARTICLE 15. Permits and Licenses

The Contractor shall obtain, maintain and submit evidence of all the licenses, permits and authorizations required to perform all services and tasks under this Contract, and shall send all notices, pay all fees, and related costs and will comply and will have its subcontractors and agents comply with all laws, ordinances, rules, and regulations applicable to the work, in accordance with the specifications. Should the Contractor find any discrepancy between the specifications and the permits, laws, ordinances, rules, and regulations referred to herein, the Contractor shall proceed immediately to notify PREPA of the discrepancy and shall not continue with the work until PREPA issues and notifies an order informing the Contractor what changes are necessary and when to proceed with the work as changed.

ARTICLE 16. Contingent Fees

The Contractor warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission percentage, brokerage or contingent fee. Breach of this warranty shall give PREPA the right to annul the Contract or, at its discretion to deduct from the Contract price or consideration the amount of such

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commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by the Contractor upon Contract or sales secured or made through bona fide established commercial or selling agencies.

ARTICLE 17. Official not to Benefit

No officer, employee or agent of PREPA, or of the Government of the Commonwealth of Puerto Rico, shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

In addition to the restrictions and limitations established under the provisions of Act No. 1-2012, as amended, retired or former officers or employees of PREPA, whose work was in any way related to the award or management of services orders or contracts, shall in no way benefit from any contract with PREPA for a period of two (2) years after leaving employment with or ceasing services to PREPA.

ARTICLE 18. Conflict of Interest

BB The Contractor certifies that none of its representatives under this Contract receive payment or compensation of any nature, for services rendered regularly through an appointment to a governmental agency, body, public corporation or municipality of Puerto Rico. The Contractor also certifies that he may have consulting services contracts with other governmental agencies or bodies, but such condition does not constitute a conflict of interest for the Contractor.

The Contractor acknowledges that in executing the services pursuant to Contract it has a duty of complete loyalty towards PREPA which includes not having adverse interests to those of PREPA related to the services. Those adverse interests include representation of clients which have or may have opposed interests to those of PREPA in relation to the services. Also, the Contractor shall have the continuous obligation to disclose to PREPA all information and circumstances of its relations with clients and third persons and any interest which could reasonably influence PREPA when executing this Agreement or during its term.

- 1) The Contractor represents conflicting interests when on behalf of a client he must contend for that which it is his duty to oppose to comply with its obligations with another previous, present or potential client. Also, the Contractor represents conflicting interests when his conduct is described as such in the canons of ethic applicable to the Contractor and his personnel or in the laws or regulations of the Commonwealth of Puerto Rico.
- 2) In the event that any of the partners, directors or employees of the Contractor should incur in the conduct described herein, said conduct shall constitute a violation to the

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- prohibitions provided herein. The Contractor shall avoid even the appearance of the existence of conflicting interests.
- 3) The Contractor acknowledges that PREPA's Contracting Officer shall have the power to intervene the acts of the Contractor and/or its agents, employees, and subcontractors regarding the enforcement of the prohibitions contained herein. In the event that PREPA should discover the existence of adverse interests with the Contractor, the Contracting Officer shall inform the Contractor, in writing, of PREPA's intention to terminate this Contract within a thirty (30) day period. During said period, the Contractor may request a meeting with the Contracting Officer to present his arguments regarding the alleged conflict of interests, which meeting shall be granted by PREPA in every case of alleged conflict of interests. In the event that the Contractor does not request such a meeting during the specified thirty (30) day period or the controversy is not satisfactorily settled during the meeting, this Contract shall be cancelled.
 - 4) The Contractor certifies that, at the time of award of this Contract, it does not have any other contractual relation that can enter in a conflict of interest with this Contract. The Contractor also certifies that no public employee has any personal or economical interest in this Contract.

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ARTICLE 19. Claims for Labor and Materials

The Contractor shall, at his own expense, assume the defense of and save harmless PREPA from claims by suppliers of Contractor furnished labor and materials, to the extent caused by the Contractor, and PREPA shall not suffer any mechanics or other liens for said claims to remain outstanding against any property used in connection with the Services; and shall, on request, furnish satisfactory evidence that all persons who have done work or furnished materials have been fully paid. If the Contractor fails to comply with his obligations in this respect, PREPA may take such liens or claims and may withhold from any monies due to the Contractor such amounts as may be necessary to satisfy and discharge any such claims and any cost and expense incidental thereto.

ARTICLE 20. Patents and Copyrights

The Contractor, at its own expense, shall defend any suit or action, to the extent caused by the contractor and brought against PREPA based on a claim that any equipment or part thereof, copyright or un-copyrighted composition, secret process, patented or unpatented invention, article, or appliance manufactured or used in the performance of this Contract, including their use by PREPA, constitutes an infringement of any patents or copyrights of the United States, if notified promptly in writing by PREPA, and given the authority, information, and assistance for the defense of the same, and the Contractor shall pay all damages and costs pursuant to the language in this paragraph awarded therein against PREPA. If in such suit the

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equipment or any part thereof, or the composition, secret process, invention, article or appliance, is held to constitute infringement and its use is enjoined, the Contractor, at its option and expense, shall either procure for PREPA the right to continue using the same or replace it with non-infringing equipment, composition, secret process, invention, article or appliance, or modify it so it becomes non-infringing; or remove it and refund the purchase price.

ARTICLE 21. **Waivers**

No waiver of any breach of this Contract shall be held to be a waiver of any other subsequent breach. All remedies afforded by PREPA in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

ARTICLE 22. **Correction of Work after Final Payment**

bb Neither the final certificate for payment nor any provision in the Contract Documents shall relieve Contractor of its responsibility for faulty work in accordance with Article 29, **Warranty**, of this Contract. All questions arising under this Article shall be decided by the Engineer, subject to appeal by the Contractor as provided in Article 23, **Disputes**.

ARTICLE 23. **Disputes**

Except as otherwise specifically provided in this Contract, all disputes concerning questions of fact arising under this Contract shall be decided by Engineer, subject to written appeal by the Contractor within thirty (30) days to the Executive Director. As soon as practicable thereafter, the Executive Director shall inform each party hereto of his decision regarding the dispute. If such challenge is made, either party may pursue its remedy at law or equity. Contractor, at its option, may elect to accept such decision or pursue remedies at law or equity. In the meantime, Contractor shall diligently proceed with work as ordered. In the event of a dispute arising during the warranty period, the Performance and Payment Bond shall be used to guarantee that Contractor will well and faithfully perform the warranty remedies as set forth in Article 29, **Warranty**.

ARTICLE 24. **Laws to be Observed**

Contractor shall observe and comply with any and all federal, state and municipal laws, ordinances and regulations that in any manner affect the work or services, the equipment or the materials used in the proposed rehabilitation, assembly, transportation and those employed in the work or the carrying out of the work, and

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shall observe all such orders and decrees as exist at present or may be enacted prior to the completion of the work by agencies or courts having any jurisdiction or authority over the work. Contractor shall save harmless and indemnify PREPA and its representatives, officers, agents and servants for fines and penalties paid by PREPA, including attorney's fees, to governmental authorities as sole result of Contractor's violation of any such law, ordinance, regulation, order or decree, whether by the Contractor or its subsidiaries, affiliates and employees, subject to limits of liability in Article 10, **Liabilities**.

ARTICLE 25. Change of Law

83 During the term of this Contract, any change in law, including, but not limited to changes in applicable tax law, or changes in import tariffs, which causes an increase in Contractor's costs when supplying the services to be acquired by PREPA, such increased costs shall be Contractor's responsibility and PREPA shall not be obliged to make additional payments nor to pay additional sums to the Contract Price originally agreed for those services. In such case, Contractor may elect to terminate this Contract without penalty with thirty (30) days written notice to PREPA and PREPA shall pay and compensate Contractor for all work and services performed to the date of termination, without waiver by Contractor of any other rights or remedies it may have in law or in equity to protect its rights under this Contract

ARTICLE 26. Choice of Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. Also, the contracting parties expressly agree that only the state courts of Puerto Rico will be the courts of competent and exclusive jurisdiction to decide over the judicial controversies that the appearing parties may have among them regarding the terms and conditions of this Contract.

ARTICLE 27. Separability

If a court of competent jurisdiction declares any of the Contract provisions as null or invalid, such holding will not affect the validity and effectiveness of the remaining provisions of the Contract and the Parties agree to comply with their respective obligations under such provisions not included by the judicial declaration.

ARTICLE 28. Discrimination

The Contractor certifies that he is an employer with equal opportunity employment, and do not discriminate by race reason, color, religion, political ideas, sex, nationality, age or mental or physical condition.

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ARTICLE 29. **Warranty**

The Contractor warrants that all equipment used, and work performed under this Contract comply in all respect with its terms and conditions; that they are free from defects in workmanship; that they are suitable and adequate for the purposes for which they were designed and for such other purposes, if any, as are specified in the Contract, and that the services provided under this Contract will conform with generally accepted power line construction industry standards of care and practice appropriate to their nature. The warranty period will begin the day after PREPA has inspected and accepted the equipment and will continue for a period of twelve (12) months. The Contractor will, upon written notice by PREPA, fully remedy, free of expense to PREPA, such defects as may develop on said services and equipment, provided that they have been properly stored, installed, maintained, and operated within the specified parameters. The Performance Bond and retainage account shall cover and serve as guarantee for this Warranty.

BB It is expressly understood that the Contractor does not manufacture materials, and thus cannot warranty materials used on PREPA's power line infrastructure. However, PREPA will be afforded the ability to approve all vendors for materials. In the event that defects arise from faulty materials, the manufacturer's warranty will apply for all material defects and harm caused by such defects.

For those materials, parts, equipment, which prove defective, or deficient during the Warranty period, whether caused by deficient installation, or wrongly operation under the supervision and guidance of the Contractor, he shall at his own expense, repair or replace, transport-in, from the Contractor's facilities to PREPA's site and transport-out from PREPA's site to the Contractor's facilities, such damage parts and/or equipments. The Manufacturer of the defective material shall be responsible for damages caused by the failure of defective parts. The Contractor shall be responsible for damages caused by deficient installation of the materials, or equipments and shall remove, replace, transport and install, at his own expenses, all materials, parts or equipment's damage caused by the deficient installation of the materials or equipments covered in the Warranty. The Performance Bond and/or retainage shall cover and serve as guarantee for the Contractor's failure, in whole or in part, to properly perform his obligations under this Contract.

In the event that PREPA requests the Contractor to repair and/or replace any work or materials provided, at the Contractor's cost, in accordance with the above referenced paragraph(s) pertaining to warranty, Contract may require a "root cause analysis" to be performed by a mutually agreed upon third party, as Contractor expense. The purpose of this "root cause analysis" is to assess whether the Contractor's warranty applies. This is to ensure that Contractor is not held liable for PREPA's misuse of materials, work performed, force majeure, etc. Examples where Contractor's

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warranty would not apply, include but are not limited to the following: improper fuse specs, over energizing line, improper wiring specs, theft, or any other act or cause outside of Contractor's control.

ARTICLE 30. Notice

Any notice to be given hereunder shall be in writing and will be sufficiently served when delivered in person or properly mailed to the following addresses:

To PREPA: Puerto Rico Electric Power
Authority PO Box 364267
San Juan, Puerto Rico 00936-4267

Attention: José F. Ortiz Vázquez

To Contractor: Foreman Electric Services Inc.
100 Calle Del Muelle Suite 2504
San Juan, Puerto Rico, 00901

Attention: Bront Bird

ARTICLE 31. Quality Assurance Clause

The Contractor shall establish an adequate quality control program adequate to satisfy all applicable regulation and requirements specified in the procurement documents. The program shall contain all those measures necessary to assure that all basic technical requisites are fulfilled.

PREPA reserves the right to conduct audits and inspections to the facilities, activities, and/or documents (limited to inspection and quality control documents) when estimated and without previous notification necessary in order to assure that the quality control program is adequate and is being properly implemented. The Contractor shall allow PREPA access to its facilities and documents (limited to inspection and quality control documents), so that PREPA, through audits and inspections can verify the quality of the purchased products or services.

In every case in which the materials or services to be furnished to PREPA are subcontracted partially or totally, by the Contractor, the Contractor shall request the subcontractor to accept and comply with all the requirements of this Quality Assurance Article.

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ARTICLE 32. **Safety Provisions**

32.1. The Contractor shall have an Occupational Safety and Health Program. A copy of this Program will be delivered to the Labor Safety Division. The Program shall comply with the following minimum requirements of a health and safety program:

- a. It shall comply with all requirements from all applicable regulations included in the 29 CFR. The Program shall have been updated within the past year from the delivery date to PREPA.
- b. It shall establish the mechanisms used to update and audit compliance with itself.
- c. It shall include an accident or incident investigation procedure. This procedure will always include the preparation of a report, which will be submitted to the Labor Safety Division of PREPA.

32.2. The Contractor shall submit, for evaluation by the Labor Safety Division, a copy of a Site Specific Work Plan. This plan shall include, but not limited to, the following aspects:

BB

- a. Objectives of the Work Plan
- b. Description of the activities to be done
- c. Occupational safety and health considerations to be addressed before commencement of the project.
- d. Procedures for achieving compliance with the applicable regulations, including, but not limited to:
 - i. Occupational Exposure to Lead (29 CFR 1926.62)
 - ii. Scaffolds (29 CFR 1926 Subpart L)
 - iii. Confined Spaces (29 CFR 1910.146)
 - iv. Occupational Exposure to Noise (29 CFR 1910.95)
 - v. Hazardous Materials (29 CFR 1910 Subpart H)
 - vi. Personal Protective Equipment (29 CFR Subpart I)
 - vii. Hazard Communication (29 CFR 1910.1200)
 - viii. HAZWOPER (29 CFR 1910.120)
 - ix. Fire Protection (29 CFR 1910 Subpart L)
 - x. Materials Handling and Storage (29CFR 1910 Subpart N)
 - xi. Commercial Diving (29 CFR 1910 Subpart T)
 - xii. Respiratory Protection (29 CFR 1910.134)
 - xiii. Fall Protection (29 CFR 1926 Subpart M)
 - xiv. Electrical (29 CFR 1926 Subpart K)
 - xv. Welding (29 CFR 1926 Subpart J)
 - xvi. Excavations (29 CFR 1926 Subpart P)
 - xvii. Demolitions (29 CFR 1926 Subpart T)

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- xviii. Blasting & Explosives (29 CFR 1926 Subpart U)
 - xix. Ventilation (29 CFR 1926.57)
 - xx. Tools, Hand and Powered (1926 Subpart I)
 - xxi. Electric industry (29 CFR 1910.269)
 - xxii. Lockout Tagout (29 CFR 1910.147)
 - xxiii. Asbestos (29 CFR 1910.1001)
- e. It will also include any other regulation or guidelines related to safety and health that could be applicable to the scope of work, and contingency procedures that include how to proceed in an emergency situation, such as fire or chemical spill, among others.
 - f. Present a list of all specialized personnel needed. Also, include copy of all training certificates, licenses or certifications required, according to the scope of work. For example: pesticides applicator, electrician, spill responder, refrigeration technician, DOT training for hazardous substances, etc. All these certificates and licenses shall be up to date.
 - g. Copy of the Material Safety Data Sheets (MSDS) of all chemical products to be used during the project, shall be evaluated and approved by the Hazard Communication Section of the Safety Division of PREPA.
 - h. Present evidence of compliance with medical surveillance requirements, according to scope of work.
 - i. Present evidence of compliance with Fit Test requirements for the use of respirators that make a face seal.
 - j. Present a list of annual training for the use of personal protective equipment.
 - k. Present a list of safety equipment and materials to be used during the project.
 - l. Procedures a procedure to verify the work area after each workday and at the end of the project.
 - m. The Contractor and Subcontractor shall adhere to a 100% drug / alcohol free work zone. At minimum, pre-project and post-accident testing is required. A positive post-accident test or positive pre-project test will result in worker dismissal from the project. Testing will be performed in following closely the SAMHSA standards (Substance Abuse and Mental Health Services Administration).
- 32.3. Before commencement of work, the Contractor shall take part in a coordination meeting with a Safety Officer and the project manager on PREPA's behalf. During this meeting the areas to be worked on will be toured, the site-specific work plan will be discussed and reviewed, and amendments to it could be required.
- 32.4. If the contracted services include demolition activities (as defined per ANSI A10.6 —1990: Demolition - the dismantling, razing or wrecking of any fixed building or structure or any part thereof) that will be carried out in buildings or structures, that because of their construction date or prior use, are suspected to contain asbestos, lead based paint or other hazardous materials, the

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- Contractor will require a certification from the project manager or owner stating that the building or structure is free of such materials.
- 32.5. The Contractor services including activities inside buildings occupied by working personnel, that could create a hazard to their safety or health, will be offered after PREPA'S working hours. The Contractor will take all steps necessary to assure the area will be free of nuisance odors or vapors before PREPA personnel is to reoccupy. All these will be done in coordination with the local supervisor of PREPA.
- 32.6. The Contractor shall assure that all wastes are characterized before removed and properly disposed, in accordance with all applicable laws and regulations, after completion of work, at the end of every work shift and after the completion of the project.
- 32.7. All chemical products to be used shall be evaluated and approved by the Hazard Communication Section of the Safety Division of PREPA and shall be classified as Approved or Conditionally Approved.
- 32.8. Welding operations will comply with the requirements of OSHA, ANSI and NFPA.
- BB 32.9. If the project involves the handling of non-asbestos insulation or other dust generating materials, like gypsum board, steps shall be taken to prevent the release of the dust to adjacent areas.
- 32.10. The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to all employees on the work and all other persons who may be affected. This includes the work, property, material and equipment on or off the site, under the care, custody or control of the Contractor or any of his subcontractors.
- 32.11. The Contractor shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.
- 32.12. The Contractor shall designate a Safety Officer at the site whose duty shall be the prevention of accidents and the implement of both the Safety and Health Program and the Site Specific Work Plan approved by PREPA's Safety Division. The Contractor shall present evidence that their Safety Officer has an effective training of 30 hours in Occupational Safety and Health Standards for Construction Industry from an approved OSHA Training Center.
- 32.13. Compliance with all safety provisions by subcontractors shall be the responsibility of the Contractor.
- 32.14. The Contractor agrees that it shall perform all work in compliance with federal, state and local occupational safety and health regulations, as described in the Site Specific Work Plan.

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- 32.15. The Contractor will obtain and maintain, during the duration of the contract, the proper permits from all federal, state and local regulatory authorities or other applicable government agency with respect to discharge, disposal, use, storage, handling and transportation of hazardous chemicals and substances as and when applicable law or regulation requires. For projects or incidents requiring notification to EPA or EQB, the Bidder shall immediately, upon becoming aware, notify the Plant Environmental Control Supervisor.
 - 32.16. The Contractor will not cause or permit any hazardous chemical or product containing a hazardous chemical to be at, or in the vicinity of, any place where any employee, agent, or contractor of PREPA, or employee of any such agent or contractor, may be at risk or exposed to hazard as a result thereof during normal use or any foreseeable emergency.
 - 32.17. The Contractor will defend, indemnify and hold harmless, PREPA, its employees, agents or assignees for any and all direct liabilities and expenses arising out of Bidder noncompliance with these clauses In accordance with Contractor's indemnification obligations pursuant to the terms of this contract.
 - 32.18. PREPA may unilaterally terminate this contract upon the Contractor's non-observance of any of the foregoing or for any failure to comply with any of the safety provisions on this Contract upon thirty (30) days of a written notice to the Contractor.

ARTICLE 33. Environmental Conditions

- 33.1. The Contractor agrees to indemnify PREPA for expenses and costs of any nature arising out of any claim due to an environmental violation, to the extent caused by his agents, employees, subcontractors or assigns during the performance or non- performance of its obligations under the Contract.
- 33.2. The Contractor should have available, and close to the working area, the necessary equipment to control, pick-up and clean up any spill that could occur during the performance of the work required by the Contract. The equipment should include all the necessary materials for the waste disposal.
- 33.3. All equipment to be used in the work area should be free of oil, transmission fluid or hydraulic fluid leakages. If the equipment develops a leakage during the work process, it should be repaired or replaced immediately. While the leaking equipment is removed of the work or it is repaired, it is the Contractor's responsibility the replacement of cloth or absorbent material and drip pans.
- 33.4. The Contractor shall inform and coordinate with the Plan Environmental Control Supervisor any work to be done to avoid any environmental violation.
- 33.5. The Contractor shall comply with all the arrangements established in the Consent Decree between PREPA and the Environmental Protection Agency (EPA), provided said Consent Decree has been supplied to Contractor by PREPA.

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- 33.6. The Contractor shall dispose of all waste generated because of this work, according to the Environmental regulations. The use of PREPA's waste disposal equipment is not permitted.
 - 33.7. All chemical products to be used shall be classified as "Approved" or "Conditional Approved" by PREPA's Hazard Communication Section and by Substances and Wastes Management Department, before entering the work area of PREPA's premises.
 - 33.8. The Contractor, upon completion of the work, must leave all the work area clean, organized and free of contaminants. The storage area for the removed equipment and parts must be appropriate to avoid contaminants dispersion to the ground or water.
 - 33.9. All chemical analysis shall be performed by an approved laboratory and shall be included in PREPA's Materials Management Division Supplier's Register as companies that are properly qualified and evaluated to perform this type of work.
 - 33.10. The disposal of non-hazardous and hazardous waste material shall be done in a Treatment Storage Disposal Facility (TSDF) previously approved by PREPA.
 - 33.11. The Contractor shall submit evidence of compliance with DOT's Hazardous Materials Transportation, 49 CFR 172 Sub. Part H (DOT).
 - 33.12. All remedial actions and environmental work will be performed by a company previously approved by PREPA.
 - 33.13. All work shall be performed according to the Best Management Practice Plan (BMPP), which is part of the Special Conditions of the NPDES Permit.
 - 33.14. Any chemical product should not reach any internal waste stream or outfall of the Plant in order to comply with the NPDES Permit.
 - 33.15. Temporary storage areas of construction and disposal materials shall be protected with dikes. In the absence of dikes, the Contractor shall prepare temporary areas with dikes to avoid materials exposure.
 - 33.16. All the construction and disposal materials shall be covered to avoid rainfall exposure during the work activities.
 - 33.17. The Contractor shall keep a chemical inventory for products with ingredients regulated by the EPA's Toxic Release Inventory (SARA title III, 313). The Contractor should do a quantity report for all the material used and disposed in the project. This report will include a copy for all the analysis taken during the project and a copy or copies of the manifest of the waste generated. This report should be submitted to the Plant Environmental Control Supervisor and to the Planning and Environmental Division.
 - 33.18. The Contractor shall be responsible to obtain the requirement air permits for the control of fugitive emission that may be caused by process or work operations.

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ARTICLE 34. Subcontracting and Assignment

Contractor shall not subcontract its obligations under this Contract, without PREPA's previous written authorization for such actions. Provided, that no subcontract shall be considered for PREPA's approval, except when the following requirements are met: (1) Contractor delivers PREPA a copy of the subcontract, not less than three (3) days prior to the effective date of the proposed subcontract; (2) the subcontract includes, as a condition for its legal validity and enforceability, a provision whereby PREPA has the right to substitute, subrogate or assume Contractor's rights under the subcontract, in the event that PREPA declares Contractor in breach or default of any of the Contract terms and conditions; and (3) the subcontract includes, as a condition for its validity and enforceability, a provision establishing for the subcontractor the obligation to comply with all of Contractor's obligations under the Contract (mirror image clause), except for such obligations, terms and conditions which exclusively related with works or services not included under the subcontract. A request to subcontract shall specify the issues or matters that will be referred to the subcontractor. These services shall be paid as part of the Agreement Amount to be paid under this Contract, as stated in Article 3, Consideration.

BB Any assignment of any rights or duties under this Contract, by either Party, shall be only with the prior written consent of the other Party. If Contractor decides to assign due or payable, to which he is entitled for services rendered or goods provided during the term of this Contract to any third party, provisions in ARTICLE 35, **Transfer of Funds**, shall apply.

ARTICLE 35. Transfer of Funds

If Contractor decides to assign or transfer an amount, due or payable, to which he is entitled for services rendered or goods provided during the term of this Contract, Contractor shall notify PREPA of such transfer of funds, in accordance to the provisions of Act 21-2012. Said notice shall clearly indicate the rights granted, including a copy of the contract under which the assignments were made, the exact amount of funds to be assigned or transferred, and specific identification information regarding the assignee (full name of the person or company), address and any other contact information.

Contractor acknowledges and agrees that PREPA may deduct any amount, due or payable under this Contract, that Contractor owes, PREPA may retain any said amount if Contractor fails to fulfill its obligations and responsibilities under this Contract, or a claim arises for warranty or defects regarding the services rendered or goods provided under this Contract. Contractor also acknowledges and agrees that PREPA's payment obligation under any assignment of funds will cease upon payment of the outstanding amounts under this Contract. PREPA shall not be required to make

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payments or transfer any funds for an amount that exceeds the payment to which Contractor is entitled to under this Contract.

Contractor's aforementioned notice of assignment of funds shall be accompanied by a cashier's check or money order payment of two hundred dollars (\$200), payable to "Puerto Rico Electric Power Authority", for administrative costs for processing said assignment.

ARTICLE 36. **Novation**

Contractor and PREPA expressly agree that no amendment which could be made to this Contract, during its term, shall be understood as a contractual novation, unless both Parties agree to the contrary, specifically and in writing. The previous provision shall be equally applicable in such other cases where PREPA gives Contractor a time extension for the compliance of any of its obligations under this contract or where PREPA dispenses the claim or demand of any of its credits or rights under this Contract.

BB

ARTICLE 37. **Income Tax Withholding**

PREPA will deduct and withhold at source to the Contractor the equivalent of ten percent (10%) from payment for services rendered under this Contract, in compliance with the Internal Revenue Code for a New Puerto Rico, Act No. 1-2011, as amended, section 1062.03. Notwithstanding, the withholding to be done by PREPA as herein stated could be increased to twenty percent (20%) in the event that the Contractor is a non-resident individual, which is a U.S. citizen, as provided by Act No. 1-2011, section 1062.08; or twenty-nine percent (29%) in the event that the Contractor is a non-resident and non U.S. citizen individual; or a foreign corporation or partnership which is not dedicated to industry or business in Puerto Rico, as provided by Act No. 1-2011, section 1062.08.

ARTICLE. 38. **Mandatory Clauses Pursuant Act 3-2017 and Circular Letter 141-17 dated January 30, 2017**

- (1) Both parties acknowledge and agree that the contracted services herein may be provided to another entity of the Executive Branch which enters into an interagency agreement with PREPA or by direct disposition of the office of the Chief of Staff. These services will be performed under the same terms and conditions in terms of hours of work and compensation set forth in this Contract. For the purpose of this clause, the term "entity of the Executive Branch" includes all agencies of the Government of Puerto Rico, as well as all instrumentalities and public corporations.
- (2) The office of the Chief of Staff shall have the power to terminate this Contract at any time.

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ARTICLE 39. Compliance with the Commonwealth of Puerto Rico Contracting Requirements

The Contractor will comply will all applicable State Law, Regulations or Executive Orders that regulate the contracting process and requirements of the Commonwealth of Puerto Rico.

A. Filing of Puerto Rico Income Tax Returns

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, the Contractor hereby certifies that it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. As evidence thereof, Contractor has delivered to PREPA an Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Income Tax Return for the last five (5) tax years (Form SC 6088). The Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every Contractor and Subcontractor whose service the Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

B. Payment of Puerto Rico Income Taxes

bb
In compliance with Executive Order Number OE-1991-24 of June 18, 1991, the Contractor, hereby certifies that it has complied and is current with the payment of all income taxes that are, or were due, to the Government of Puerto Rico. As evidence thereof, Contractor has delivered to PREPA a certification issued by the Treasury Department of Puerto Rico indicating that Contractor does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms (Form SC 6096). During the term of this Contract, the Contractor agrees to pay and/or to remain current with any repayment plan agreed to by the Contractor with the Government of Puerto Rico. The Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each Subcontractor whose service the Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

C. Compliance with Requirements of the Department of Labor and Human Resources of the Commonwealth of Puerto Rico.

Pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24, the Contractor certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security

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for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. As evidence thereof, Contractor has delivered to PREPA:

1. A certification issued by the Bureau of Employment Security (*Negociado de Seguridad de Empleo*) of the Puerto Rico Department of Labor and Human Resources certifying that Contractor does not owe taxes regarding Unemployment or Disability Insurance.
2. A certification issued by the Program for Social Security for Chauffeurs and Other Employees of the Puerto Rico Department of Labor and Human Resources certifying that contractor has no debt with respect to such program.

D. Real and Personal Property Taxes

BB Contractor hereby certifies and guarantees that it does not have any current debt regarding property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (*Centro de Recaudación de Ingresos Municipales* ("CRIM")). The Contractor further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. The Contractor shall provide:

1. A certification issued by the Municipal Revenues Collection Center ("MRCC"), assuring that Contractor does not owe any tax accruing during the last five (5) years to such governmental agency with respect to personal property; or negative Debt certification issued by the MRCC with respect to personal property taxes and a sworn statement executed by Contractor indicating that (i) its revenues are derived from the rendering of professional services, (ii) during the last 5 years (or the time in which it has been providing professional services) it has had no taxable business or personal property on the 1st of January of each year, (iii) that for such reasons it has not been required to file personal property tax returns, as required under Article 6.03 of Act 83-1991, as amended and (iv) that for such reason it does not have an electronic tax file in the MRCC's electronic system.
2. All Concepts Debt Certification issued by the MRCC assuring that Contractor does not owe any taxes to such governmental agency with respect to real and personal property; or Negative certification issued by the MRCC with respect to real property taxes.

E. Sales and Use Taxes

The Contractor has delivered to PREPA:

1. A Certification issued by the Puerto Rico Treasury Department indicating that

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Contractor does not owe Puerto Rico Sales and Use taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan and is in full compliance with its terms.

2. A Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods.
3. A copy of Contractor's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.

F. Puerto Rico Child Support Administration (ASUME)

Contractor hereby certifies that it is not duty bound to pay child support, or if so, that Contractor is up to date or has a payment plan to such effects. As evidence thereof, the Contractor has delivered to PREPA a certification issued by the Puerto Rico Child Support Administration (Administración Para El Sustento de Menores (ASUME) certifying that the Contractor have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME.

BB

G. Organization Documents

The Contractor shall provide:

1. A Good Standing Certificate issued by the Department of State of Puerto Rico.
2. A Certification of Incorporation, or Certification of Organization or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico.

H. Compliance with Act No. 1 of Governmental Ethics

The Contractor will certify compliance with Act No. 1 of January 3, 2012, as amended, known as the Ethics Act of the Government of Puerto Rico, which stipulates that no employee or executive of PREPA nor any member of his or her immediate family (spouse, dependent children, or other members of his or her household or any individual whose financial affairs are under the control of the employee) shall have any direct or indirect pecuniary interest in the services to be rendered under this Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with the Secretary of Treasury and the Secretary of Justice of the Government. 3 L.P.R.A. § 8611 et seq.

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I. Law 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People

The Contractor will certify that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act No. 168-2000, as amended, the same is current and in all aspects in compliance. Act No. 168-2000 "Law for the Strengthening of the Family Support and Livelihood of Elderly People" in Spanish: "Ley para el Fortalecimiento del Apoyo Familiar y Sustento de Personas de Edad Avanzada", 3 L.P.R.A. §8611 et seq.

J. Law Num. 127, May 31, 2004: Contract Registration in the Comptroller's Office of Puerto Rico Act

Payment for Services under this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Law Number 18 of October 30, 1975, as amended.

BB K. Prohibition with respect to execution by public officers: (3 L.P.R.A. 8615(c))

No public officer or employee authorized to contract on behalf of the executive agency for which he/she works may execute a contract between the agency for which he/she works and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

L. Prohibition with respect to contracting with officers or employees: (3 L.P.R.A. 8615(d))

No executive agency may execute a contract in which any of its officers or employees or any member of their family units has or has had direct or indirect economic interest during the last four (4) years prior to their holding office, unless the Governor gives authorization thereto with the previous recommendation of the Secretary of the Treasury and the Secretary of Justice.

M. Prohibition with respect to contracts with officers and employees of other Government entities: (3 L.P.R.A. 8615(e))

No public officer or employee may be a party to or have any interest in any profits or benefits produced by a contract with any other executive agency or government dependency unless the Governor gives express authorization thereto with previous recommendation from the Secretary of the Treasury and the Secretary of Justice.

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N. Prohibition with respect to evaluation and approval by public officers:
(3 L.P.R.A. 8615(f))

No public officer or employee who has the power to approve or authorize contracts shall evaluate, consider, approve or authorize any contract between an executive agency and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

O. Prohibition with respect to execution by public officers contracts with former public officers: (3 L.P.R.A. 8615(h))

No executive agency shall execute contracts with or for the benefit of persons who have been public officers or employees of said executive agency until after two (2) years have elapsed from the time said person has ceased working as such.

BB
P. Dispensation

Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record.

Q. Rules of Professional Ethics

The Contractor acknowledges and accepts that it is knowledgeable of the rules of ethics of his or her profession and assumes responsibility for his or her own actions.

R. Anti-Corruption Code for a New Puerto Rico

1. Contractor agrees to comply with the provisions of Act No. 2-2018, as the same may be amended from time to time, which establishes the Anti-Corruption Code for a New Puerto Rico.
2. The Contractor hereby certifies that it does not represent particular interests in cases or matters that imply a conflict of interest, or of public policy, between the executive agency and the particular interests it represents.
3. Contractor shall furnish a sworn statement to the effect that neither Contractor nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for Contractor has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico or any of the crimes included in Act 2-2018.
4. Contractor hereby certifies that it has not been convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3, or 5.7 of Act 1-2012, as amended,

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known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

- BB
5. PREPA shall have the right to terminate the Contract in the event Contractor is convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3, or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

S. Provisions Required under Act 14-2004:

Contractor agrees that articles extracted, produced, assembled, packaged or distributed in Puerto Rico by enterprises with operations in Puerto Rico, or distributed by agents established in Puerto Rico shall be used when the service is rendered, provided that they are available.

T. Act 42-2018 "Act of Preference for Contractors and Local Construction Suppliers"

Contractor agrees to comply with Act 42- 2018, that established as a public policy of the Government of Puerto Rico that, regarding the purchase and contracting of Construction Services, at least twenty percent (20%) of said purchases and contracts will be rendered by a Business or Local Provider of Construction Services.

U. Consequences of Non-Compliance

The Contractor expressly agrees that the conditions outlined throughout this Section are essential requirements of this Contract. Consequently, should any one of these representations, warranties or certifications be incorrect, inaccurate or misleading, in whole or in part, there shall be sufficient cause for the PREPA to render this Contract null and void, and the Contractor shall reimburse the PREPA all moneys received under this Contract. If any of the certifications listed in items A through F of this Section shows a debt, and Contractor has requested a review or adjustment of this debt, Contractor hereby certifies that it has made such request at the time of the

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Contract execution. If the requested review or adjustment is denied and such determination is final, Contractor will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Contractor accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments. The Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every Contractor and Subcontractor whose service the Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

ARTICLE 40. Compliance with Applicable Federal Law, Regulations and Executive Orders.

A. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).

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1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
 3. Withholding for unpaid wages and liquidated damages. PREPA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums

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as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

- bb B. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall so certify to the tier above it. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient (the Government of Puerto Rico). Contractor shall also submit to PREPA the required certification regarding lobbying at Appendix A, 44 C.F.R. Part 18.

- C. Remedies. Any violation or breach of terms of this Contract on the part of the Contractor or a subcontractor may result in the suspension or termination of this Contract or such other action, including the recovery of damages, as may be necessary to enforce the rights of PREPA. The duties and obligations imposed by this Contract and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.


- D. Clean Air Act and the Federal Water Pollution Control Act.

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Contractor agrees to report each violation to PREPA and understands and agrees that PREPA will, in turn, report each violation as required to assure notification to the Puerto Rico Emergency Management Agency, the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

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- E. Changes. At any time changes in the Services or work to be performed within the general scope of this Contract may be made in accordance with Article 6, Changes/Extra Work; provided, however, that no changes shall be made to the scope of the Services that would render the costs incurred in the performance of this Contract unallowable or not allocable under, or outside the scope, or not reasonable for the completion of, Federal grant awards from FEMA, HUD or any other U.S. federal agency.
- F. Sufficiency of Funds. The Contractor recognizes and agrees that funding for this Contract is contingent upon the availability of Federal assistance awarded by federal agencies to the Government of Puerto Rico. A failure of PREPA to make any payment under this Contract due to unavailability of Federal and/or Government of Puerto Rico funding shall not constitute a breach of the Contract by PREPA or default thereunder and PREPA and the Government of Puerto Rico shall not be held financially liable therefore. If during the term of this Contract, Federal or local funding is reduced, deobligated, or withdrawn, PREPA may reduce the scope of or terminate the Contract. PREPA shall provide the Contractor with written notice of the lack of funding within a reasonable time and PREPA reserves all rights to reduce the scope of or terminate the Contract as a result of lack of funding.
- G. FEMA Disaster Assistance Survivor/Registrant Data.
1. If the Contractor has access to Disaster Assistance Survivor/Registrant data or any other personally identifiable information, the Contractor shall comply with the provisions of the Terms and Conditions for Sharing FEMA Disaster Assistance Survivor/Registrant Data with State Governments set forth in the FEMA-Government of Puerto Rico Contract for FEMA-4339-DR-PR.
 2. The Contractor shall indemnify, defend, and hold harmless PREPA and the Government of Puerto Rico for any and all costs associated with the defense of that litigation, including costs and attorneys' fees, settlements, or adverse judgments arising from the Contractor's failure to comply with the requirements under this contract.
- H. Costs. All costs incurred by the Contractor in performance of this Contract must be in accord with the cost principles of 2 C.F.R. pt. 200, Subpart E. PREPA shall not be required to make payments to the Contractor for costs which are found to be contrary to the cost principles 2 C.F.R. pt. 200, Subpart E.
- I. Financial Management System. The Contractor's financial management system shall provide for the following:

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1. accurate, current, and complete disclosure of the financial results of this Contract and any other contract, grant, program, or other activity administered by the Contractor;
 2. records adequately identifying the source and application of all Contractor funds and all funds administered by the Contractor which shall contain information pertaining to all contract and grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income, and shall be segregated by contract or on a contract-by-contract basis;
 3. effective internal control structure over all funds, property, and other assets, sufficient to allow the Contractor to adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;
 4. comparison of actual outlays with budgeted amounts for this Contract and for any other contract, grant, program, or other activity administered by the Contractor;
 5. accounting records supported by source documentation;
 6. procedures to minimize elapsed time between any advance payment issued and the disbursement of such advance funds by the Contractor; and
 7. procedures consistent with the provisions of any applicable policies of the Federal Government and the Government of Puerto Rico and procedures for determining the reasonableness, allowability and allocability of costs under this Contract.

J. Penalties, Fines, and Disallowed Costs. In the event that any U.S. Federal agency or the Government of Puerto Rico disallows or demands repayment for costs incurred in the performance of this Contract, or if any penalty is imposed due to an act or omission by the Contractor, the Contractor shall be solely responsible for such penalty, disallowed costs, or repayment demand, and shall reimburse PREPA in full within ten days of receiving notice from PREPA of such penalty, disallowance, or repayment demand. Any monies paid by the Contractor pursuant to this provision shall not relieve the Contractor of liability to PREPA for damages sustained by PREPA by virtue of any other provision of this Contract.

K. Debarment, Suspension, and Ineligibility.

1. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor represents and warrants that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The Contractor further represents and warrants that it will not enter into any contracts or subcontracts with any individual or entity which has been debarred, suspended or deemed ineligible under those provisions. During the term of this Contract, the Contractor will periodically review SAM.gov and local notices to verify the

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continued accuracy of this representation. The Contractor shall require all subcontractors at every tier to comply with this requirement.

2. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by PREPA. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C, an 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Government of Puerto Rico and PREPA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

L. Reporting Requirements. The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by PREPA.

BB M. Review of laws. The Contractor certifies that it will access online and read each law that is cited in the aforementioned clauses and that, in the event it cannot access the online version, it will notify PREPA in order to obtain printed copies of the laws. Not requiring a printed copy of the laws to PREPA will be evidence that the Contractor was able to find it online and read it as required.

N. Notice of Federal Emergency Management Agency (FEMA) Reporting Requirements and Regulations.

1. PREPA is using Federal grant funding awarded or administered by FEMA to the Government of Puerto Rico and/or PREPA to pay, in full, for the costs incurred under this Contract. As a condition of FEMA funding under major disaster declaration FEMA-4339-DR-PR, FEMA requires the Government of Puerto Rico and PREPA to provide various financial and performance reporting. The Contractor agrees to provide all information, documentation, and reports necessary to satisfy these reporting requirements. Failure by the Contractor to provide information necessary to satisfy these reporting requirements may result in loss of Federal funding for this Contract, and such failure shall be a material breach of this Contract.
2. Applicable Regulations and Policy. Applicable regulations, FEMA policy, and other sources setting forth these reporting requirements include, but are not limited to:
 - (1) 2 C.F.R. § 327 (Financial Reporting);
 - (2) 2 C.F.R. § 200.328 (Monitoring and Reporting Program Performance);
 - (3) Performance and financial reporting requirements set forth in 2 C.F.R. Part 206.

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O. Access to Records.

1. The Contractor agrees to provide PREPA, the Government of Puerto Rico, the FEMA and HUD Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA and HUD Administrator or his authorized representatives access to work sites pertaining to the work being completed under the Contract.

BB P. Retention requirements for records. The Contractor agrees to maintain all books, records, accounts, and reports and all other records produced or collected in connection with this Contract for a period of not less than three years from the date of submission by PREPA or the Puerto Rico Emergency Management Agency, on PREPA's behalf, of the final expenditure report for disaster declaration FEMA-4339-DR-PR, as reported to FEMA. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. It is the responsibility of the Contractor to inquire of PREPA whether the aforementioned final expenditure report has been submitted.

Q. Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

R. Procurement of Recovered Materials. In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are Environmental Protection Agency ("EPA")- designated items unless the product cannot be acquired—

1. Competitively within a timeframe providing for compliance with the Contract performance schedule;
2. Meeting Contract performance requirements; or
3. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

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- S. Energy Efficiency. The Contractor agrees to comply with the requirements of 42 U.S.C. § 6201, which contain policies relating to energy efficiency that are defined in the Government of Puerto Rico's energy conservation plan issued in compliance with said statute.
- T. Compliance with the Davis-Bacon Act.
1. The Contractor shall comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141–3148, and the requirements of 29 C.F.R. § 5.5 as may be applicable, which are incorporated by reference into this Contract.
 2. The Contractor or subcontractor shall insert in any subcontracts the foregoing clause and such other clauses as FEMA and HUD may by appropriate instructions require. The Contractor shall require all subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
 3. A breach of the contract clauses above may be grounds for termination of the Contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.
- BB U. Compliance with the Copeland Anti-Kickback Act (applicable to all contracts subject to the Davis-Bacon Act).
1. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3, as may be applicable, all of which are incorporated by reference into this Contract.
 2. The Contractor and subcontractor shall insert in any subcontracts the foregoing clause and such other clauses as FEMA and HUD may by appropriate instructions require. The Contractor shall require all subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
 3. A breach of the contract clauses above may be grounds for termination of the contract and for debarment as a Contractor and subcontractor, as provided in 29 C.F.R. § 5.12.
- V. Equal Employment Opportunity. During the performance of this Contract, the Contractor agrees as follows:
1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment,

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or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
4. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining Contract or other contract or understanding (if any) a notice advising the labor union or workers' representative of the Contractor's commitments under section 202 of the US Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Contractor will comply with all provisions of Executive Order 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Contractor will furnish all information and reports required by Executive Order 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by PREPA, the Government of Puerto Rico, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the Contractor's non-compliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

BB

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8. The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- BB
- W. Age Discrimination Act of 1975. The Contractor shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.
- X. Americans with Disabilities Act. The Contractor shall comply with the appropriate areas of the Americans with Disabilities Act of 1990, as enacted and from time to time amended, and any other applicable federal regulation. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the term of this Contract.
- Y. Title VI of the Civil Rights Act of 1964. The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- Z. Section 504 of the Rehabilitation Act of 1973, as Amended. The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.
- AA. Drug-Free Workplace. The Contractor shall maintain a drug-free work environment in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8101 et seq.), and implementing regulations at 2 C.F.R Part 3001.
- BB. Compliance with Laws, Regulation and Executive Orders. The Contractor acknowledges that FEMA and HUD financial assistance will be used to fund this Contract. The Contractor shall comply will all applicable Federal and Government

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of Puerto Rico law, regulations, executive orders, policies, procedures, and directives, including but not limited to all Federal Cost Principles set forth in 2 C.F.R. Part 200, and all applicable FEMA and HUD regulations in 44 C.F.R. Chapter I, and 2 C.F.R. Part 200.

- BB
- CC. Provisions Required by Law Deemed Inserted. Each and every provision required by law regulation, executive order, policy, procedure, directive, Federal grant award or agreement, or cooperative agreement with any Federal agency to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein. If, through mistake or otherwise, any provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.
- DD. Agreement to Execute Other Required Documents. Contractor and all subcontractors, by entering into the Contract, understand and agree that funding for the Services is provided under Federal programs with specific contracting requirements. To the extent any such requirement is not otherwise set forth herein, Contractor agrees to execute such amendments or further agreements as may be necessary to ensure that PREPA receives Federal funding for this Contract.
- EE. U.S. Department of Homeland Security Seal, Logo, and Flags. The Contractor shall not use the U.S. Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.
- FF. No Obligation by the Federal Government. PREPA and the Contractor acknowledge and agree that the Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to PREPA, Contractor, or any other party pertaining to any matter resulting from the contract.
- GG. Buy American—Construction Materials Under Trade Agreements (Oct 2016)

(a) Definitions. As used in this clause—

Caribbean Basin country construction material means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a

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Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

Commercially available off-the-shelf (COTS) item—

(1) Means any item of supply (including construction material) that is—

- (i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
- (ii) Sold in substantial quantities in the commercial marketplace; and
- (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

BB
Component means an article, material, or supply incorporated directly into a construction material.

Construction material means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding

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profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Designated country means any of the following countries:

- BB
- (1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom);
 - (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);
 - (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or
 - (4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

Designated country construction material means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

Domestic construction material means—

- (1) An unmanufactured construction material mined or produced in the United States;

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(2) A construction material manufactured in the United States, if—

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

Foreign construction material means a construction material other than a domestic construction material.

Free Trade Agreement country construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

BB (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

Least developed country construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

WTO GPA country construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

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(b) Construction materials.

- (1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.
- (2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.
- (3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:

BB [Contracting Officer is to list applicable excepted materials or indicate "none"]

- (4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that—
 - (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
 - (ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or
 - (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American statute.

- (1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—
 - (A) A description of the foreign and domestic construction materials;

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- (B) Unit of measure;
 - (C) Quantity;
 - (D) Price;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
- BB (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
- (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.
- (d) Data. To permit evaluation of requests under paragraph (c) of this clause based on

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unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) ¹
Item 1:			
Foreign construction material			
Domestic construction material			
Item 2:			
Foreign construction material			
Domestic construction material			

Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

bb List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

Notes:

- List in paragraph (b)(3) of the clause all foreign construction material excepted from the requirements of the Buy American statute, other than designated country construction material.
- If the head of the agency determines that a higher percentage is appropriate, substitute the higher evaluation percentage in paragraph (b)(4)(i).

Restrictions on Certain Foreign Purchase

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

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- (b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/offices/enforcement/ofac>.
- (c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

Inconsistency Between English Version and Translation of Contract

In the event of inconsistency between any terms of this contract and any translation into another language, the English language meaning shall control.

HH. Section 3 of the Housing and Urban Development Act of 1968

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

- BB
1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
 3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

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4. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
 5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
 6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
 7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and sub contracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

ARTICLE 41. Complete Agreement

This document, together with all attachments referred to herein, constitutes the entire agreement between the parties as to this subject matter and supersedes all communications, negotiations, and agreements of the Parties, whether written or oral, other than these, made prior to the signing of this Contract. In case of conflict the terms and conditions of this Contract, as signed by the parties, shall prevail.

Master Service Agreement Foreman Electric Services
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IN WITNESS THEREOF, the parties hereto have executed this Contract as this
29 day of January 2019.

Puerto Rico Electric Power Authority

Foreman Electric Services



José F. Ortiz Vázquez
Chief Executive Officer
Social Security Number:



Bront Bird
Chief Executive Officer
Social Security Number

Appendix A
Master Service Agreement Foreman Electric Services

Scope of Services Provided

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- 1.) Perform overhead distribution power line services, to include but are not limited to: engineering and design, tearing down and removing inadequate distribution infrastructure, performing assessments of damages incurred by natural disasters and/or other means, rebuilding distribution power line infrastructure, constructing new distribution power line infrastructure, performing quality assurance checks of performed work.
 - 2.) Perform underground distribution power line services, to include but are not limited to: engineering and design, tearing down and removing inadequate distribution infrastructure, performing assessments of damages incurred by natural disasters and/or other means, rebuilding distribution power line infrastructure, constructing new distribution power line infrastructure, performing quality assurance checks of performed work.
 - 3.) Perform overhead transmission power line services, to include but are not limited to: engineering and design, tearing down and removing inadequate transmission infrastructure, performing assessments of damages incurred by natural disasters and/or other means, rebuilding transmission power line infrastructure, constructing new transmission power line infrastructure, performing quality assurance checks of performed work.
 - 4.) Perform underground transmission power line services, to include but are not limited to: engineering and design, tearing down and removing inadequate transmission infrastructure, performing assessments of damages incurred by natural disasters and/or other means, rebuilding transmission power line infrastructure, constructing new transmission power line infrastructure, performing quality assurance checks of performed work.
 - 5.) Perform substation services to include but are not limited to: engineering and design, tearing down and removing inadequate substation infrastructure, performing assessments of damages incurred by natural disasters and/or other means, rebuilding substation infrastructure, constructing new substation infrastructure, performing quality assurance checks of performed work.
 - 6.) Perform GIS mapping services to correct and enable the utility to have correct information of location of all powerline, substation, and electrical infrastructure mapping.
 - 7.) Perform and Enact security procedures by design and implementation which are consistent with the security procedures for resilience as defined under the Homeland Security Presidential Directive 23 and the National Security Presidential

Appendix A - Master Service Agreement Foreman Electric Services
Page 2

Directive 54, and implement the restoration activities with active intelligence measures to prevent blackouts and power losses on a machine intelligence level, providing PREPA unified reporting on all assets as with and in strict accordance with the provisions of this contract. Provide electronic audit and security platform which is capable of reporting to PREPA, FEMA, FERC, and DHA, any security breaches from the infrastructure being repaired.

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- 8.) Perform helicopter operations to include but not limited to: distribution and transmission maintenance and construction work, assessments of damages, and GIS mapping.
- 9.) Provide engineering and construction services that include but are not limited to: design and construction of concrete structures, design and construction of transmission towers, provide damage assessments, account for and protect against environmental erosion, clear and create right of ways, construct roads.
- 10.) Provide all necessary equipment, tooling, lodging, and logistics for any and all of the above scope of services referenced in numbers (1-9).

Appendix B - CONTRACTOR'S RATE SCHEDULE

Master Service Agreement Foreman Electric Services

Line Item	QTY	Billable Daily Rate	Extended Daily Billable Rate	Comments
Blended rate, skilled linemen and equipment, Transmission	200	\$2,700	\$540,000	*Does not include helicopter rate
Blended rate, skilled linemen and equipment, Distribution	400	\$2,600	\$1,040,000	*Does not include helicopter rate
All-Inclusive/lodging, power, water, meals, laundry	858	\$181	\$155,298	*QTY does not include Cyber Security Personnel. However, same rate will apply.
Security Team	50	\$1,700	\$85,00	
Logistics team (Island)	70	\$2,000	\$140,000	
Management Team, Operations & Safety	138	\$2,200		
Others (Totals/Average)				
Blended rate, Skilled Cyber Security Project Manager/Engineer , and equipment	51	\$6,181		*Dependent on notice to proceed
Blended rate, Skilled Cyber Security Project Architect , and equipment	262	\$2,161		*Dependent on notice to proceed
Blended rate, Skilled Cyber Security Technician , and equipment	55	\$1,671		*Dependent on notice to proceed
Mobilization/Demobilization and other reimbursable items shall be paid on a cost reimbursement basis				

* Blended day rate is for any work day 12 hours or longer. We will work 16 but anything over 12 we will be compensated full day rate.

* In the event that PREPA would require a working day of less than 12 hours, the hourly blended rate will be the day rate divided by 12.

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Appendix C CONTRACTOR'S STANDARD EQUIPMENT AND TOOLING SCHEDULE

Contractor's composite day rate for labor and standard equipment has been developed based on supplying the following types of equipment listed below.

Any equipment or specialized tooling not indicated below and used on a one-time basis shall be considered a reimbursable item and shall be reimbursed at cost. Any equipment or specialized tooling not indicated below and used on a long-term basis shall be considered a reimbursable item and shall be reimbursed based on actual rental.

Reimbursable items shall also be defined to include but not to be limited to, any items and costs associated with mobilization and demobilization. Reimbursable items such as fuel surcharges, Contractor-furnished permanent materials and equipment costs will be reimbursed at cost.

Any expenses of Contractor that are not specifically listed in this Appendix C shall be subject to a specific work order to be provided to PREPA by Contractor for approval before such expenses are incurred by Contractor.

Labor Description	Unit Rate
Transmission Lineman	\$225.00
Distribution Lineman	\$216.67
Security Team	\$141.67
Logistics Team	\$166.67
Management Team	\$183.33
Cyber Security Project Manager/Engineer	\$515.08
Cyber Security Project Architect	\$180.08
Cyber Security Technician	\$139.25
Equipment Description	Unit Rate
42-55" Distribution Bucket Truck	*Required Equipment Complimentary with Labor (Except Helicopters or anything not included on list)
47' Distribution Digger Truck	Same as above

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Appendix C - CONTRACTOR'S STANDARD EQUIPMENT AND TOOLING SCHEDULE
Page 2

Pole Trailer	Same as above
Easement Machine	Same as above
Dozer with Winch	Same as above
Track hoe	Same as above
65ft-100ft Transmission Bucket Truck	Same as above
60'-100' Transmission Digger Truck	Same as above
Transmission Cranes	Same as above
Pickups & Mechanic Trucks	Same as above
Wire Puller Single Drum 6,000#	Same as above
Hard Line Puller	Same as above
Wire Tensioner Multi-Groove	Same as above
Mechanics Trucks	Same as above
Transmission Dollies	Same as above
Material Trailers	Same as above
Haul Trucks and Trailers	Same as above
Mats 18ftx4ftx8inches thick	Same as above
Helicopter Transmission Bundled Dollies	Same as above
Double Bundled Tensioner	Same as above
90' Reel Stand	Same as above
Spacer Baskets	Same as above
MD 500 Helicopter	\$2,850 (includes fuel)
A- Star Helicopter	\$3,350 (includes fuel)
S-61 Helicopter	\$8,900 (includes fuel)

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Appendix C - CONTRACTOR'S STANDARD EQUIPMENT AND TOOLING SCHEDULE
Page 3

Equipment Description	Quantity
42-55" Distribution Bucket Truck	140
47' Distribution Digger Truck	60
Pole Trailer	14
Easement Machine	3
Dozer with Winch	5
Track hoe	1
65ft-100ft Transmission Bucket Truck	15
60'-100' Transmission Digger Truck	17
Transmission Cranes	14
Pickups, Mechanic Trucks, and ATVs	As many as needed
Wire Puller	5
Hard Line Puller	1
Wire Tensioner Multi-Groove	12
Mechanics Trucks	2
Transmission Dollies	As many as needed
Material Trailers	11
Haul Trucks and Trailers	7
Mats 18ftx4ftx8inches thick	As many as needed
Helicopter Transmission Bundled Dollies	As many as needed
Double Bundled Tensioner	2
90' Reel Stand	2
Spacer Baskets	5
MD-500 Helicopter	3 or as many as needed

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Appendix C - CONTRACTOR'S STANDARD EQUIPMENT AND TOOLING SCHEDULE
Page 4

A-Star Helicopter	1 or as many as needed
S-61 Helicopter	1 or as many as needed

BB * Blended day rate is for any work day 12 hours or longer. Will work 16 but anything over 12 we will be compensated full day rate.

* In the event that PREPA would require a working day of less than 12 hours, the hourly blended rate will be the day rate divided by 12.

Annex D
Master Service Agreement
Foreman Electric Services
U.S. Department of Housing
and Urban Development
Office of Labor Relations

Federal Labor Standards Provisions

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

BB A. 1. (i) **Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

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(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

68 (iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (I) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

BB C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Annex E
Master Service Agreement
Foreman Electric Services

General Decision Number: PR180001 01/05/2018 PR1

Superseded General Decision Number: PR20170001

State: Puerto Rico

Construction Type: Building

Counties: Puerto Rico Statewide.

BUILDING CONSTRUCTION (does not include single family homes and apartments up to and including 4 stories).

bb
Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/05/2018

* SUPR1993-001 10/29/1993

	Rates	Fringes
BRICKLAYER.....	\$ 7.25	.42
CARPENTER.....	\$ 7.25	.34
CEMENT MASON/CONCRETE FINISHER...	\$ 7.25	.31
ELECTRICIAN (Including HVAC control wiring).....	\$ 7.25	
IRONWORKER.....	\$ 7.25	
Laborer, Unskilled.....	\$ 7.25	
PAINTER.....	\$ 7.25	

PIPEFITTER.....	\$ 7.25	
PLUMBER (Including HVAC work)....	\$ 7.25	.31
Power equipment operators:		
Cranes.....	\$ 7.25	
Diggers.....	\$ 7.25	
Loaders.....	\$ 7.25	.26
Traxcavator.....	\$ 7.25	
Sheet metal worker (Including HVAC duct work).....	\$ 7.25	.31
TRUCK DRIVER.....	\$ 7.25	.30

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate

BB

(weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

BB
Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of

each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

BB

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

General Decision Number: PR180002 01/05/2018 PR2

Superseded General Decision Number: PR20170002

State: Puerto Rico

Construction Types: Heavy and Highway

Counties: Puerto Rico Statewide.

HEAVY AND HIGHWAY CONSTRUCTION PROJECTS.

BB
Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/05/2018

* SUPR1995-001 05/26/1995

	Rates	Fringes
CARPENTER.....	\$ 7.25	.50

CEMENT MASON/CONCRETE FINISHER...	\$ 7.25	.47
ELECTRICIAN.....	\$ 7.25	.80
IRONWORKER.....	\$ 7.25	
Laborers:		
Laborers (unskilled).....	\$ 7.25	.43
Pipelayers.....	\$ 7.25	
Line Construction:		
Linemen.....	\$ 7.25	.84
Telephone linemen: Ground & Pole.....	\$ 7.25	
PIPEFITTER.....	\$ 7.25	
PLUMBER.....	\$ 7.25	
Power equipment operators:		
Asphalt Luters.....	\$ 7.25	3.11
Backhoe.....	\$ 8.25	.59
Bulldozer.....	\$ 7.25	.99
Crane.....	\$ 7.25	1.43
Diggers.....	\$ 7.25	
Grader.....	\$ 7.25	1.06
Greaser/Oilers.....	\$ 7.25	
Loaders.....	\$ 7.25	.92
Mechanics.....	\$ 7.25	.76
Paver.....	\$ 7.25	3.15
Roller.....	\$ 7.25	3.14
SCRAPERS:		
18 CY and over.....	\$ 8.10	.59
less than 18 CY.....	\$ 7.80	.59
less than 185 HP.....	\$ 8.00	.59
Screedman.....	\$ 8.80	3.13
TRACTORS:		
185 HP and over.....	\$ 8.10	.59
SCRAPERS		
TRUCK DRIVER.....	\$ 7.25	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours

bb

they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

BB

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average

rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

BB

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

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U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

General Decision Number: PR180002 01/05/2018 PR2

Superseded General Decision Number: PR20170002

State: Puerto Rico

Construction Types: Heavy and Highway

Counties: Puerto Rico Statewide.

HEAVY AND HIGHWAY CONSTRUCTION PROJECTS.

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts

subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number Publication Date
0 01/05/2018

* SUPR1995-001 05/26/1995

	Rates	Fringes
CARPENTER.....\$	7.25	.50
CEMENT MASON/CONCRETE FINISHER...\$	7.25	.47
ELECTRICIAN.....\$	7.25	.80
IRONWORKER.....\$	7.25	
Laborers:		
Laborers (unskilled).....\$	7.25	.43
Pipelayers.....\$	7.25	
Line Construction:		
Linemen.....\$	7.25	.84
Telephone linemen: Ground & Pole.....\$	7.25	
PIPEFITTER.....\$	7.25	
PLUMBER.....\$	7.25	
Power equipment operators:		
Asphalt Luters.....\$	7.25	3.11
Backhoe.....\$	8.25	.59
Bulldozer.....\$	7.25	.99
Crane.....\$	7.25	1.43
Diggers.....\$	7.25	
Grader.....\$	7.25	1.06
Greaser/Oilers.....\$	7.25	
Loaders.....\$	7.25	.92

BB

Mechanics.....	\$ 7.25	.76
Paver.....	\$ 7.25	3.15
Roller.....	\$ 7.25	3.14
SCRAPERS:		
18 CY and over.....	\$ 8.10	.59
less than 18 CY.....	\$ 7.80	.59
less than 185 HP.....	\$ 8.00	.59
Screedman.....	\$ 8.80	3.13
TRACTORS:		
185 HP and over.....	\$ 8.10	.59
SCRAPERS		

TRUCK DRIVER.....\$ 7.25

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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bb Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

BB

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current

negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

BB With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

General Decision Number: PR180003 01/05/2018 PR3

Superseded General Decision Number: PR20170003

State: Puerto Rico

Construction Type: Residential

Counties: Puerto Rico Statewide.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

BB

Modification Number	Publication Date
0	01/05/2018

* SUPR1993-002 10/29/1993

	Rates	Fringes
CARPENTER.....	\$ 7.25	.65
CEMENT MASON/CONCRETE FINISHER...	\$ 7.25	

ELECTRICIAN.....	\$ 7.25	.64
IRONWORKER.....	\$ 7.25	.63
Laborer, Unskilled.....	\$ 7.25	.36
PAINTER.....	\$ 7.25	
PLUMBER.....	\$ 7.25	.56
Power equipment operators:		
Cranes.....	\$ 7.25	1.14
Diggers.....	\$ 7.25	
TRUCK DRIVER.....	\$ 7.25	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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BB Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

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Survey Rate Identifiers

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BB

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

BB On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

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200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an

interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

BB

EXHIBIT B

2019-P00057A

**AMENDMENT NO. 1
TO
MASTER SERVICE AGREEMENT
BETWEEN
FOREMAN ELECTRIC SERVICES INC.
AND
PUERTO RICO ELECTRIC POWER AUTHORITY**

This Amendment No. 1 to Master Service Agreement (this "**Amendment No. 1**") is made and entered into as of March 7, 2019, by and between Puerto Rico Electric Power Authority ("**PREPA**"), a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created pursuant to Act No. 83 of May 2, 1941, as amended, represented in this act by its Chief Executive Officer/Executive Director, mister José F. Ortiz Vázquez, of legal age, married and resident of San Juan, Puerto Rico, and Foreman Electric Services Inc. (the "**Contractor**"), a corporation organized under the laws of, and duly authorized to engage in business in, the Commonwealth of Puerto Rico, represented in this act by its Chief Executive Officer, mister Bront Bird. The Contractor and PREPA are herein individually referred to as a "**Party**" and collectively referred to as "**Parties**". All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Agreement (defined below).

RECITALS

WHEREAS, the Contractor and PREPA entered into that certain Master Service Agreement 2019-P000057 dated as of January 29, 2019 (the "**Agreement**");

WHEREAS, the Contractor and PREPA agree to amend the Agreement as provided herein to include the payment of a Deposit (defined below), upon the issuance of the first Notice to Proceed, as well as to provide for certain related set-off rights for PREPA; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

BB

Amendment No. 1 to Master Service Agreement – Foreman Electric Services Inc.
Page 2

SECTION A. Amendment to the Agreement. Article 1 of the Agreement is hereby amended and restated in its entirety as follows:

“SCOPE: The Contractor shall provide labor, supervision, tools, equipment and materials necessary to perform the hurricane restoration and reconstruction services at various locations in PREPA's service areas, all in strict accordance with the provisions of this Contract and Contractor's proposal attached hereto as Appendix A. PREPA will sign one Contract Release for each line, feeder, segment, substation, or switchyard project. The terms and conditions stated in this Contract will govern on any Contract Release all in accordance and compliance with FEMA guidelines and regulations.

All activations and requests of any service, equipment, and/or personnel located in Appendix A must come by official written Notice to Proceed by PREPA. Contractor will not proceed, or incur any financial burden, without a formal written Notice to Proceed. Such Notice to Proceed will become financially binding on the part of PREPA. No later than five (5) business days after the issuance of the first Notice to Proceed under this Contract, signed by the Chief Executive Officer of PREPA and authorizing the Contractor to mobilize its resources for deployment to Puerto Rico, PREPA shall pay to the Contractor \$5,500,000 as a lump-sum deposit towards the Contractor's mobilization costs (the “Deposit”). PREPA shall have the right to set off and withhold payments of the final invoices under the Contract, as reasonably determined by PREPA, against the remaining, unused amount of the Deposit. If the amount of the unused Deposit exceeds the amount of the remaining outstanding invoices, then the Contractor shall refund the remaining portion of the Deposit to PREPA upon the expiration or termination of this Contract.

BB

CONTRACT VALUE: The value of this Contract does not exceed \$250,000,000.

Amendment No. 1 to Master Service Agreement – Foreman Electric Services Inc.
Page 3

TERM OF CONTRACT: This Contract shall be in effect from the date of its execution until June 30, 2019.”

SECTION B. Effect on the Agreement. Except as specifically amended above, the Agreement is and shall continue to be in full force and effect.

SECTION C. Counterparts. This Amendment No. 1 may be simultaneously executed in several counterparts, each of which shall be an original and all of which together shall constitute one and the same Agreement.

SECTION D. Entire Agreement. This Amendment No. 1 and the Agreement embody the entire agreement between the Parties relating to the subject matter hereof. The Parties shall not be bound by or liable for the terms and conditions of any other documents proposed or submitted prior to the date of this Amendment No. 1 and not incorporated herein (by reference or otherwise).

SECTION E. Governing Law. This Amendment No. 1 shall be governed by the laws of the Commonwealth of Puerto Rico, and to the extent applicable, the laws of the United States of America.

BB

Amendment No. 1 to Master Service Agreement – Foreman Electric Services Inc.
Page 4

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment No. 1 to be duly executed by their respective officers as of the date first above written.

FOREMAN ELECTRIC SERVICES INC.

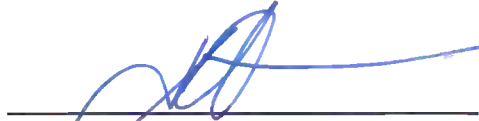
By:



Bront Bird
Chief Executive Officer

PUERTO RICO ELECTRIC POWER AUTHORITY

By:



José F. Ortiz Vázquez
Chief Executive Officer

EXHIBIT C

2019-P00057B
AMENDMENT NO. 2
TO
MASTER SERVICE AGREEMENT
BETWEEN
FOREMAN ELECTRIC SERVICES INC.
AND
PUERTO RICO ELECTRIC POWER AUTHORITY

This Amendment No. 2 to Master Service Agreement ("**Amendment No. 2**") is made and entered into as of June 20, 2019, by and between Puerto Rico Electric Power Authority ("**PREPA**"), a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created pursuant to Act No. 83 of May 2, 1941, as amended, represented in this act by its Chief Executive Officer/Executive Director, mister José F. Ortiz Vázquez, of legal age, married and resident of San Juan, Puerto Rico, and Foreman Electric Services Inc. (the "**Contractor**"), a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, represented in this act by its Chief Executive Officer, mister Bront Bird, of legal age, single, and resident of San Juan, Puerto Rico. The Contractor and PREPA are herein individually referred to as a "**Party**" and collectively referred to as "**Parties**". All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Agreement (defined below). -----

BB

RECITALS

WHEREAS, the Parties entered into that certain Master Service Agreement 2019-P000057, dated as of January 29, 2019, as amended by Amendment No. 1 (2019-P000057-A), dated as of March 7, 2019 (collectively, the "**Agreement**"); and -----

WHEREAS, the Parties agree to amend Article 1 of the Agreement as provided herein to extend the term that the Agreement shall be in effect, in order to ensure that PREPA has an emergency services contractor in place for the 2019 hurricane season; -----

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein and for other good and valuable consideration the receipt

Amendment No. 2 to Master Service Agreement – Foreman Electric Services Inc.
Page 2

and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows: -----

SECTION A. Amendment to the Agreement. The Parties hereby amend the date “June 30, 2019” in the section captioned TERM OF CONTRACT of Article 1 of the Agreement to “December 31, 2019”. -----

SECTION B. Effect on the Agreement. Except as specifically amended above, and the Agreement is and shall continue to be in full force and effect. -----

SECTION C. Counterparts. This Amendment No. 2 may be simultaneously executed in several counterparts, each of which shall be an original and all of which together shall constitute one and the same Agreement. -----

SECTION D. Entire Agreement. This Amendment No. 2 and the Agreement embody the entire agreement between the Parties relating to the subject matter hereof. The Parties shall not be bound by or liable for the terms and conditions of any other documents proposed or submitted prior to the date of this Amendment No. 2 and not incorporated herein (by reference or otherwise). -----

SECTION E. Governing Law. This Amendment No. 2 shall be governed by the laws of the Commonwealth of Puerto Rico, and to the extent applicable, the laws of the United States of America. -----

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment No. 2 to be duly executed by their respective officers as of the date first above written. -----

Puerto Rico Electric Power Authority



José F. Ortiz Vázquez
Chief Executive Officer

Foreman Electric Services, Inc.



Brond Bird
Chief Executive Officer

BB